

<b>SOLICITATION, OFFER AND AWARD</b>		1. THIS CONTRACT IS A RATED ORDER UNDER DPAS (15 CFR 700)		RATING N/A		PAGE OF PAGES 1	
2. CONTRACT NUMBER		3. SOLICITATION NUMBER PR-HQ-02-10855		4. TYPE OF SOLICITATION [ ] SEALED BID (IFB) [X] NEGOTIATED (RFP)		5. DATE ISSUED November 22, 2002	
7. ISSUED BY (Hand Delivered/Overnight Commercial Carriers)		CODE		8. ADDRESS OFFER TO (If other than Item 7) (U. S. Mail Only)			
Environmental Protection Agency Bid and Proposal Room, Ronald Reagan Building, 6th Floor (3802R) 1300 Pennsylvania Avenue, N.W. Washington, DC 20004				Environmental Protection Agency Bid and Proposal Room, Ariel Rios Building (3802R) 1200 Pennsylvania Avenue, N.W. Washington, DC 20460			

NOTE: In sealed bid solicitations "offer" and "offeror" mean "bid" and "bidder"

**SOLICITATION**

9. Sealed offers in original and <u>2</u> copies for furnishing the supplies or services in the Schedule will be received at the place specified in item 8, or if handcarried, in the depository until <u>03:00 PM</u> local time <u>12/23/2002</u> (Hour) (Date)											
CAUTION - LATE Submissions, Modifications, and Withdrawals: See Section L, Provision No. 52.214-7 or 52.215-1. All offers are subject to all terms and conditions contained in this solicitation.											
10. FOR INFORMATION CALL:		A. NAME RICHARD D. MEDLIN		B. TELEPHONE (NO COLLECT CALLS) AREA CODE 202		NUMBER 564-4476		EXT.		C. E-MAIL ADDRESS medlin.richard@epa.gov	

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**OFFER (Must be fully completed by offeror)**

NOTE: Item 12 does not apply if the solicitation includes the provisions in 52.214-16, Minimum Bid Acceptance Period.									
12. In compliance with the above, the undersigned agrees, if this offer is accepted within _____ calendar days (60 calendar days unless a different period is inserted by the offeror) from the date for receipt of offers specified above, to furnish any or all items upon which prices are offered at the price set opposite each item, delivered at the designated point(s), within the time specified in the schedule.									
13. DISCOUNT FOR PROMPT PAYMENT (See Section I, Clause 52-232-8)		10 CALENDAR DAYS		20 CALENDAR DAYS		30 CALENDAR DAYS		____ CALENDAR DAYS	
		%		%		%		%	
14. ACKNOWLEDGMENT OF AMENDMENTS (The offeror acknowledges receipt of amendments to the SOLICITATION for offerors and related documents numbered and dated:)		AMENDMENT NO.		DATE		AMENDMENT NO.		DATE	
15A. NAME AND ADDRESS OF OFFEROR		CODE		FACILITY		16. NAME AND TITLE OF PERSON AUTHORIZED TO SIGN OFFER (Type or print)			
15B. TELEPHONE NUMBER		15C. CHECK IF REMITTANCE ADDRESS IS DIFFERENT FROM ABOVE - ENTER [ ] SUCH ADDRESS IN SCHEDULE		17. SIGNATURE				18. OFFER DATE	
AREA CODE		NUMBER		EXT.					

**AWARD (To be completed by Government)**

19. ACCEPTED AS TO ITEMS NUMBERED		20. AMOUNT		21. ACCOUNTING AND APPROPRIATION	
22. AUTHORITY FOR USING OTHER THAN FULL AND OPEN COMPETITION: [ ] 10 U.S.C. 2304(c)( ) [ ] 41 U.S.C. 253(c)( )				23. SUBMIT INVOICES TO ADDRESS SHOWN IN (4 copies unless otherwise specified)	
24. ADMINISTERED BY (If other than item 7)		CODE		25. PAYMENT WILL BE MADE BY	
				CODE:	
				Environmental Protection Agency Research Triangle Park Financial Management Center (D143-02) Research Triangle Park, NC 27711	
26. NAME OF CONTRACTING OFFICER (Type or print)				27. UNITED STATES OF AMERICA	
				(Signature of Contracting Officer)	
				28. AWARD DATE	

IMPORTANT - Award will be made on this Form, or on Standard Form 26, or by other authorized official written notice.

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**PART I - THE SCHEDULE****SECTION B - SUPPLIES OR SERVICES AND PRICES/COSTS****B.1 LEVEL OF EFFORT--COST REIMBURSEMENT TERM CONTRACT (EPAAR 1552.211-73)  
(APR 1984) DEVIATION**

(a) The Contractor shall perform all work and provide all required reports within the level of effort specified below. The Government will order **40,000** direct labor hours for the base period which represents the Government's best estimate of the level of effort required to fulfill these requirements.

(b) Direct labor includes personnel such as engineers, scientists, draftsmen, technicians, statisticians, and programmers and not support personnel such as company management, typists, and key punch operators even though such support personnel are normally treated as direct labor by the Contractor. The level of effort specified in paragraph (a) includes Contractor, subcontractor, and consultant labor hours.

(c) Under any circumstances, if the Government orders or the Contractor provides less than 90 percent of the level of effort specified for the base period or any optional period exercised, an equitable downward adjustment of the fixed fee, if any, for that period will be made. The Government may require the Contractor to provide additional effort up to 110 percent of the level of effort for any period until the estimated cost for that period has been reached. However, this additional effort shall not result in any increase in the fixed fee, if any. If this is a cost-plus-incentive-fee (CPIF) contract, the term "fee" in this paragraph means "base fee and incentive fee." If this is a cost-plus-award-fee (CPAF) contract, the term "fee" in this paragraph means "base fee and award fee."

(d) If the level of effort specified to be ordered during a given base or option period is not ordered during that period, that level of effort may not be accumulated and ordered during a subsequent period.

(e) These terms and conditions do not supersede the requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

**B.2 TARGET TASK RATE- LEVEL OF EFFORT (LOE)**

Definition:

**Target Task Rate-** The average cost-plus-fixed fee (CPFF) per hour of level of effort (LOE) for performing statement of work (SOW) tasks listed in the Contractor's Task Matrix \_\_\_\_\*\_\_\_\_.

<u>SOW Tasks</u>	<u>Target Task Rate per LOE (by period)</u>
Regulatory Support	**

Technical Support	**
Training Support	**
Meeting/Logistic Support	**

It is expected that the Contractor will develop work plans and perform work under the contract utilizing a blend of personnel that reflect the mix contained in Attachment \_\_\_\_\*\_\_\_\_ and the corresponding task rate. For less complex work assignments, the proposed and invoiced task rate, may be less than the task rate listed in Attachment \_\_\_\_\*\_\_\_\_. Conversely, for a more complex work assignment, the proposed and invoiced task rate, may be greater than the task rate listed in Attachment 1. The Contractor shall document the rationale for deviating from the task rates listed in Attachment \_\_\_\_\*\_\_\_\_.

The Government will utilize the task rate as the basis for evaluating the Contractor's cost management performance.

\* To be completed at time of contract award.

\*\* Based upon accepted price proposal at time of contract award.

### **B.3 TARGET TASK RATE OF SUPPORT PERSONNEL**

The direct labor hours identified in the Section B clause, LEVEL OF EFFORT-COST REIMBURSEMENT TERM CONTRACT (EPAAR 1552.211-73) (APR 1984) DEVIATION, does not include support personnel such as program management, typists, or data entry clerks.

The following table identifies the support personnel that the Contractor will direct charge under this contract, in accordance with its normal accounting practice, for performing the contract requirements. The following table also provides the TARGET TASK RATE for an hour labor associated with support personnel. The Government will utilize the Target Task Rate as the basis for evaluating the Contractor's cost management performance.

#### BASE PERIOD

<u>HOURS</u>	<u>CPFF</u>	<u>TARGET TASK RATE</u>
*	*	*

#### OPTION PERIOD I

<u>HOURS</u>	<u>CPFF</u>	<u>TARGET TASK RATE</u>
*	*	*

#### OPTION PERIOD II

<u>HOURS</u>	<u>CPFF</u>	<u>TARGET TASK RATE</u>
*	*	*



The cost and fee shown above have been included in the total contract cost and fee amounts listed in the Section B clause, ESTIMATED COST AND FIXED FEE (EP 52.216-90) (APR 1984) and the Section H clause, OPTION TO EXTEND THE TERM OF THE CONTRACT- COST TYPE CONTRACT (EPAAR 1552.217-71) DEVIATION.

\* To be inserted at time of contract award

#### **B.4 WORK ASSIGNMENTS (EPAAR 1552.211-74) (APR 1984)**

(a) The Contractor shall perform work under this contract as specified in written work assignments issued by the Contracting Officer.

(b) Each work assignment will include (1) a numerical designation, (2) the estimate of required labor hours, (3) the period of performance and schedule of deliverables, and (4) the description of the work.

(c) The Contractor shall acknowledge receipt of each work assignment by returning to the Contracting Officer a signed copy of the work assignment within 3 calendar days after its receipt. The Contractor shall begin work immediately upon receipt of a work assignment.

Within 15 calendar days after receipt of a work assignment, the Contractor shall submit 2 copy(ies) of a work plan to the project officer and 1 copy to the Contracting Officer. The work plan shall include a detailed technical and staffing plan and a detailed cost estimate.

Within 15 calendar days after receipt of the work plan, the Contracting Officer will provide written approval or disapproval of it to the Contractor.

If the Contractor has not received approval on a work plan within 15 calendar days after its submission, the Contractor shall stop work on that work assignment. Also, if the Contracting Officer disapproves a work plan, the Contractor shall stop work until the problem causing the disapproval is resolved. In either case, the Contractor shall resume work only when the Contracting Officer finally approves the work plan.

(d) This clause does not change the requirements of the "Level of Effort" clause, nor the notification requirements of either the "Limitation of Cost" or "Limitation of Funds" clauses.

(e) Work assignments shall not allow for any change to the terms or conditions of the contract. Where any language in the work assignment may suggest a change to the terms or conditions, the Contractor shall immediately notify the Contracting Officer.

#### **B.5 ESTIMATED COST AND FIXED FEE (EP 52.216-190) (APR 1984)**

(a) The estimated cost of this contract is \_\_\_\_\*\_\_\_\_.

(b) The fixed fee is \_\_\_\_\*\_\_\_\_.

(c) The total estimated cost and fixed fee is \_\_\_\_\*\_\_\_\_.

\* To be completed at time of contract award

**B.6 OTHER DIRECT COSTS (EP 52.231-110) (APR 1984)**

For the categories listed, direct costs in excess of the following are not allowable as a charge to this contract without the prior written approval of the Contracting Officer:

Travel	<u>\$40,000</u>
Other Direct Costs	<u>\$181,065</u>

**B.7 LIMITATION OF FUNDS NOTICE (EP 52.232-100) (APR 1984)**

(a) Pursuant to the Limitation of Funds clause, incremental funding in the amount of TBD is allotted to cover estimated cost. Funds in the amount of TBD are provided to cover the corresponding increment of fixed fee. The amount allotted for costs is estimated to cover the contractor's performance through TBD.

(b) When the contract is fully funded as specified in the Estimated Cost and Fixed Fee Clause (EP 52.216-190), the Limitation of Cost clause shall become applicable.

**SECTION C - DESCRIPTION/SPECIFICATIONS/WORK STATEMENT**

**C.1 NOTICE REGARDING PROHIBITED CONTRACTOR ACTIVITIES ON ENVIRONMENTAL PROTECTION AGENCY (EPA) CONTRACTS (EP 52.000-000) (NOV 1994)**

The Contractor shall not perform any of the following activities on behalf of EPA in connection with this contract:

1. The actual preparation of Congressional testimony.
2. The interviewing or hiring of individuals for employment at EPA.
3. Developing and/or writing of Position Descriptions and Performance Standards.
4. The actual determination of Agency policy.
5. Participating as a voting member on a Performance Evaluation Board; participating in and/or attending Award Fee meetings.
6. Preparing Award Fee Letters, even under typing services contracts.
7. The actual preparation of Award Fee Plans.
8. The preparation of documents on EPA Letterhead other than routine administrative correspondence.
9. Reviewing vouchers and invoices for the purposes of determining whether costs, hours, and work performed are reasonable.
10. The preparation of Statements of Work, Work Assignments, Technical Direction Documents, Delivery Orders, or any other work issuance document under a contract that the contractor is performing or may perform. Such a work issuance document, prepared by an EPA prime contractor under an EPA prime contract for its subcontractor, is exempt from this prohibition.
11. The actual preparation of responses to audit reports from the Inspector General, General Accounting Office, or other auditing entities.
12. Preparing responses to Congressional correspondence.
13. The actual preparation of responses to Freedom of Information Act requests, other than routine, non-judgmental correspondence.
14. Any contract which authorizes a contractor to represent itself as EPA to outside parties.
15. Conducting administrative hearings.
16. Reviewing findings concerning the eligibility of EPA employees for

security clearances.

17. The actual preparation of an office's official budget request.

**C.2 STATEMENT OF WORK--CONTRACT WHERE WORK IS ORDERED BY WORK ASSIGNMENTS OR DELIVERY ORDERS (EP 52.210-110) (APR 1984)**

Technical Support for Regulatory Development, Analysis, Implementation, and  
Assessment for the Oil Program Center  
RFP-HQ-02-10855

(a) BACKGROUND

Responsibility for the management and implementation of the Oil Program Center is vested principally in the Office of Emergency and Remedial Response (OERR). OERR is responsible for developing national strategy, programs, technical policies, regulations and guidelines to prevent, prepare and respond to oil spills.

For pertinent background information, program history, and environmental statutes, see the web address below:

<http://www.epa.gov.oilspill>

(b) ACRONYMS

CWA	Clean Water Act of 1972
FR	Federal Register
FRP	Federal Response Plan
GPO	Government Printing Office
GPRA	Government Performance and Results Act
ICR	Information Collection Requests
NCP	National Oil and Hazardous Substances Pollution Contingency Plan
NRS	National Response System
OERR	Office of Emergency and Remedial Response
OPA	Oil Pollution Act of 1990
PREP	Preparedness for Response Exercise Program
SPCC	Spill Prevention Controls and Countermeasures

(c) SPECIFIC TASKS

The contractor shall perform work in the following task areas as specified in individual work assignments approved by the Contracting Officer.

1. Regulatory Support

The contractor shall provide analytical and technical support to EPA in its development of regulations or other guidance associated with the Oil Program. These regulations, policies, and guidelines must be developed under the authorities of the CWA and OPA and any new legislation that may be enacted. Specific tasks include:

- (1) Prepare written reports, documentation, rulemaking and planning records, draft development documents, analysis, and guidance;
- (2) Prepare draft materials for EPA's possible use in regulatory preambles and other FR notices;
- (3) Prepare technical, environmental, statistical, and economic information in order to provide data and documentation, including advantages and disadvantages, to be used by EPA in its analysis of technical issues and options for alternative regulatory approaches which may include the use of public and confidential records and files;
- (4) Collect data, literature searches, and available technical and financial information to gather industry data and /or compile industry profiles;
- (5) Design draft survey instruments for collection of technical, economic, and financial data consistent with the Paperwork Reduction Act, Executive Order 12291, and Office of Management and Budget requirements;
- (6) Design surveys consistent with the Paperwork Reduction Act, Executive Order 12291, and Office of Management and Budget requirements;
- (7) Provide data analysis consistent with the Paperwork Reduction Act, Executive Order 12291, and Office of Management and Budget requirements;
- (8) Prepare Information Collection Requests (ICR) consistent with the Paperwork Reduction Act, Executive Order 12291, and Office of Management and Budget requirements;
- (9) Manage database tracking systems, database fields, and enter data;
- (10) Mail and follow up efforts associated with survey instruments and ICRs;
- (11) Establish and operate temporary toll-free help-lines;
- (12) Receive and review submissions and follow-up on missing or incomplete submissions;
- (13) Summarize and analyze a variety of technical, statistical, and financial information;
- (14) Prepare technical, cost, cost effectiveness, cost-benefit, and environmental analyses, including environmental impact analyses to support regulatory initiatives; assessment and technical support to provide analyses of the incremental annualized costs of alternative technology options;
- (15) Monetize the regulatory and non-regulatory benefits, including the consideration of social cost and social benefits, estimation of comprehensive

environmental assessments of the effects of policy alternatives on the many different stakeholders and of distributional effects, and the inclusion of pollutant-specific evaluation of environmental fate and effects;

(16) Prepare public comment documents using a compatible database system, summarizing comments, and preparation of a comprehensive index and list with cross references of all issues raised in public comments as well as all supporting data and information provided in public comments;

(17) Prepare cogent, accurate draft technical responses to public comments, including all relevant citations to the rulemaking or planning record. Organize and prepare draft responses based on Agency input and direction;

(18) Prepare accurate draft assessments documents and analyses to support the Agency in judicial and administrative reviews, based on thorough knowledge and understanding of the rulemaking, planning records, or guidance. Under no circumstances shall the Contractor develop EPA litigation or negotiation strategy nor represent EPA during litigation or negotiations.

## 2. Technical Support

The contractor shall provide analytical and technical support to the EPA in its communication of mission activities to include implementation and compliance of regulations, policies, and other guidance and support activities associated with the Oil Program. This support will assist the Oil Program in communicating its mission to various stakeholders, including upper management, other EPA divisions and regional officers. Specific assignments include:

(1) Manage oil clean up technologies and evaluate selected products with respect to their physical/chemical properties; hazards; functions; methods used in their production; processing, use at industrial or commercial facilities or by consumers; environmental release; fate; transport; risk of exposure to the general population, workers, consumers, and the environment; life-cycle environmental impacts; current and potential methods to prevent waste generation and to prevent or control releases or exposure substitute chemicals, processes, or technologies for performing the same function; and performance effects and potential costs and benefits of substitution, process changes, and other pollution prevention actions;

(2) Provide technical support for the petroleum tank, engineering and inspection standards through research, data gathering, and analysis and applicability for inspections and development of inspection criteria and prevention activities based upon the SPCC/FRP regulations and training courses;

(3) Develop and produce communications materials, including recommendations for formats for the specific purpose related to this contract's SOW and the intended audience;

(4) Provide administrative and technical assistance in support of exhibit booths;

(5) Prepare camera-ready copy consistent with EPA design standards and Government Printing Office (GPO) requirements;

(6) Research, analyze, compile and evaluate data supplied by EPA to summarize progress and to report accomplishment to: 1.) Support the Oil Program's requirements under the Government Performance and Results Act (GPRA) goals and objectives, and to 2.) support in the assessment of resource needs, obligations, and expenditures for various stages of the Oil Program's prevention, preparedness and response activities to project future needs of implementing the Oil Program regulatory requirements;

(7) Provide analytical support to collect, analyze, enter, report and document data using existing EPA information systems and other database tools, including analyzing methods and evaluating program planning systems and/or processes to recommend potential systems or process improvements for consideration and implementation;

(8) Perform technical peer review of technical documents and materials prepared by entities other than the contractor or the contractor's team members and consultants. The contractor shall ensure that all peer reviews are conducted in a manner to avoid all actual, potential, or apparent conflicts of interest, including the submittal of conflict of interest certifications consistent with contract requirements. When conducting peer reviews, the contractor shall follow EPA's Science Policy Council Handbook on Peer Review, (EPA 100-B-001, December 2000, 2nd Edition) or the most recent rendition of that handbook. The Handbook can be found electronically at the EPA website, <http://www.epa.gov> .

### 3. Training Support

The contractor shall support EPA Oil program objectives through training support. Specific tasks include:

(1) Prepare draft and final course outlines for training;

(2) Prepare draft and final presentations of training;

(3) Provide training materials in the application of EPA technical guidance, policies, regulatory implementation and compliance;

(4) Provide the training facility and video tape the training sessions for future use;

#### 4. Technical Meeting and Logistic Support

The contractor shall provide technical meeting and logistic support for the Oil Program as follows:

- (1) Execute workshops, conferences, training sessions, symposia and public meetings;
- (2) Prepare meeting summaries;
- (3) Prepare meeting minutes;
- (4) Prepare reports and technical support to address various rulemaking and policy issues and practical implementation concerns on related subjects.

#### **C.3 COMPLIANCE WITH EPA POLICIES FOR INFORMATION RESOURCES MANAGEMENT (EPAAR 1552.211-79) (OCT 2000) DEVIATION**

- (a) Definition. Information Resources Management (IRM) is defined as any planning, budgeting, organizing, directing, training, promoting, controlling, and managing activities associated with the burden, collection, creation, use and dissemination of information. IRM includes both information itself, and the management of information and related resources such as personnel, equipment, funds, and technology. Examples of these services include but are not limited to the following:
  - (1) The acquisition, creation, or modification of a computer program or automated data base for delivery to EPA or use by EPA or contractors operating EPA programs.
  - (2) The analysis of requirements for, study of the feasibility of, evaluation of alternatives for, or design and development of a computer program or automated data base for use by EPA or contractors operating EPA programs.
  - (3) Services that provide EPA personnel access to or use of computer or word processing equipment, software, or related services.
  - (4) Services that provide EPA personnel access to or use of: Data communications; electronic messaging services or capabilities; electronic bulletin boards, or other forms of electronic information dissemination; electronic record-keeping; or any other automated information services.
- (b) General. The Contractor shall perform any IRM related work under this contract in accordance with the IRM policies, standards and procedures set forth in this clause and noted below. Upon receipt of a work request (i.e. delivery order or work assignment), the Contractor shall



check this listing of directives (see paragraph (d) for electronic access). The applicable directives for performance of the work request are those in effect on the date of issuance of the work request.

(1) IRM Policies, Standards and Procedures. The 2100 Series (2100-2199) of the Agency's Directive System contains the majority of the Agency's IRM policies, standards and procedures.

(2) Groundwater Program IRM Requirement. A contractor performing any work related to collecting Groundwater data; or developing or enhancing data bases containing Groundwater quality data shall comply with EPA Order 7500.1A - Minimum Set of Data Elements for Groundwater.

(3) EPA Computing and Telecommunications Services. The Enterprise Technology Services Division (ETSD) Operational Directives Manual contains procedural information about the operation of the Agency's computing and telecommunications services. Contractors performing work for the Agency's National Computer Center or those who are developing systems which will be operating on the Agency's national platforms must comply with procedures established in the Manual. (This document may be found at: <http://basin.rtpnc.epa.gov:9876/etsd/directives.nsf>.)

- (c) Printed Documents. Documents listed in (b) (1) and (b) (2) may be obtained from:

U.S. Environmental Protection Agency  
Office of Administration  
Facilities Management and Services Division  
Distribution Section  
Mail Code: 3204  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460  
Phone: (202) 260-5797

- (d) Electronic Access. Electronic access. A complete listing, including full text, of documents included in the 2100 Series of the Agency's Directive System is maintained on the EPA Public Access Server on the Internet at <http://epa.gov/docs/irmpoli8/>.

#### **C.4 ACQUISITION AND USE OF ENVIRONMENTALLY PREFERABLE PRODUCTS AND SERVICES (EP-S 97-1) (MAY 1999)**

- (a) Executive Order 13101 of September 14, 1998, entitled "Greening the Government through Waste Prevention, Recycling, and Federal Acquisition" and Section 6002 of the Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 U.S.C. 6962, Pub L. 94-580, 90 Stat. 2822) require Federal agencies to procure designated items with the highest recovered materials content practicable.
- (b) In the performance of this contract, the Contractor shall comply with the requirements of the following issuances:

(1) Title 40 of the Code of Federal Regulations, Part 247, Comprehensive Guideline for Procurement of Products Containing Recovered Materials (CPG), which designates items that are or can be made with recovered materials, and its companion pieces, the Recovered Materials Advisory Notices (RMANs). The CPG and RMANs provide recommended procurement practices, including recommended recovered material content levels, for purchasing products designated in the CPG. The Contractor shall comply with these recommendations, and such other CPG revisions and RMANs as the Environmental Protection Agency (EPA) may issue with respect to the procurement of products that contain recovered materials. (Copies of the CPG or RMANs, as well as information on manufacturers and vendors of designated items may be obtained by calling EPA's RCRA Hotline at (800) 424-9346, or, in the Washington, D.C., metropolitan area, at (703) 412-9810.)

(2) In complying with the requirements of paragraph (b), the Contractor shall coordinate its concerns and program guidance with EPA's Recycling Coordinator.

- (c) The Contractor shall prepare and submit reports on the purchase of products containing recovered materials from time to time in accordance with written direction (e.g., in specified format) from the EPA Recycling Coordinator through the Contracting Officer. Reports shall be submitted to the EPA Recycling Coordinator, with a copy to the Contracting Officer, Mail Code 3204, Washington, D.C. 20460.

**SECTION D - PACKAGING AND MARKING**

[For this Solicitation, there are NO clauses in this Section]

**SECTION E - INSPECTION AND ACCEPTANCE****E.1 INSPECTION OF SERVICES--COST-REIMBURSEMENT (FAR 52.246-5) (APR 1984)  
DEVIATION**

- (a) Definition. "Services," as used in this clause, includes services performed, workmanship, and material furnished or used in performing services.
- (b) The Contractor shall provide and maintain an inspection system acceptable to the Government covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Government during contract performance and for as long afterwards as the contract requires.
- (c) The Government has the right to inspect and test all services called for by the contract, to the extent practicable at all places and times during the term of the contract. The Government shall perform inspections and tests in a manner that will not unduly delay the work.
- (d) If any of the services performed do not conform with contract requirements, the Government may require the Contractor to perform the services again in conformity with contract requirements, for no additional fee. When the defects in services cannot be corrected by reperformance, the Government may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce any fee payable under the contract to reflect the reduced value of the services performed.
- (e) If the Contractor fails to promptly perform the services again or take the action necessary to ensure future performance in conformity with contract requirements, the Government may (1) by contract or otherwise, perform the services and reduce any fee payable by an amount that is equitable under the circumstances or (2) terminate the contract for default.

**E.2 HIGHER-LEVEL CONTRACT QUALITY REQUIREMENT (GOVERNMENT SPECIFICATION)  
(FAR 52.246-11) (MAR 2001)**

The Contractor shall comply with the higher-level quality standard selected below.

	<u>Title</u>	<u>Numbering</u>	<u>Date</u>	<u>Tailoring</u>
[✓]	<i>Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs</i>	ANSI/ASQC E4	1994	See below

[ ]

[ ]

As authorized by FAR 52.246-11, the higher-level quality standard ANSI/ASQC E4 is tailored as follows:

The solicitation and contract require the offeror/contractor to demonstrate conformance to ANSI/ASQC E4 by submitting the quality documentation described below.

In addition, after award of the contract, the Contractor shall revise, when applicable, quality documentation submitted before award to address specific comments provided by EPA and submit the revised documentation to the Contracting Officer's Representative.

After award of the contract, the Contractor shall also implement all quality documentation approved by the Government.

- A. **Pre-award Documentation:** The offeror must submit the following quality system documentation as a separate and identifiable part of its technical proposal: *(CO, select one or more)*

<u>Documentation</u>	<u>Specifications</u>
[ ] Quality Management Plan	<u>EPA Requirements for Quality Management Plans (QA/R-2)</u> [dated 03/20/01]
[✓] Joint Quality Management Plan/Quality Assurance Project Plan for the contract	<u>EPA Requirements for Quality Management Plans (QA/R-2)</u> [dated 03/20/01] and <u>EPA Requirements for Quality Assurance Project Plans (QA/R)</u> [dated 03/20/01]
[ ] Programmatic Quality Assurance Project Plan for the entire program (contract)	<u>EPA Requirements for Quality Assurance Project Plans (QA/R-5)</u> [dated 03/20/01]
[ ] Other Equivalent:	

This documentation will be prepared in accordance with the specifications identified above, or equivalent specifications defined by EPA, \_\_\_\_\_. Work involving environmental data generation or use

shall not commence until the Government has approved this documentation and incorporated it into the contract.

- B. **Post-award Documentation:** The Contractor shall submit the following quality system documentation to the Contracting Officer's Representative at the time frames identified below: *(CO, select one or more)*

<u>Documentation</u>	<u>Specification</u>	<u>Due After</u>
<input type="checkbox"/> Quality Management Plan	<u>EPA Requirements for Quality Management Plans (QA/R-2)</u> [dated 03/20/01]	Award of contract
<input type="checkbox"/> Joint Quality Management Plan/Quality Assurance Project Plan for the contract	<u>EPA Requirements for Quality Management Plans (QA/R-2)</u> [dated 03/20/01] and <u>EPA Requirements for Quality Assurance Project Plans (QA/R-5)</u> [dated 03/20/02]	Award of contract
<input checked="" type="checkbox"/> Quality Assurance Project Plan for the contract	<u>EPA Requirements for Quality Assurance Project Plans (QA/R-5)</u> [dated 03/20/01]	Award of contract
<input type="checkbox"/> Programmatic Quality Assurance Project Plan for the entire program (contract)	<u>EPA Requirements for Quality Assurance Project Plans (QA/R-5)</u> [dated 03/20/01]	Award of contract
<input type="checkbox"/> Quality Assurance Project Plan for each applicable project	<u>EPA Requirements for Quality Assurance Project Plans (QA/R-5)</u> [dated 03/20/01]	Issuance of statement of work for the project
<input type="checkbox"/> Project-specific supplement to Programmatic Quality Assurance Project Plan for each applicable project.	<u>EPA Requirements for Quality Assurance Project Plans (QA/R-5)</u> [dated 03/20/01]	Issuance of statement of work for the project
<input type="checkbox"/> Other Equivalent:		<input type="checkbox"/> award of contract <input type="checkbox"/> issuance

of statement  
of work for  
the

project

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This documentation will be prepared in accordance with the specifications identified above or equivalent specifications defined by EPA, \_\_\_\_\_.

The Government will review and return the quality documentation, with comments, and indicating approval or disapproval. If necessary, the contractor shall revise the documentation to address all comments and shall submit the revised documentation to the government for approval.

The Contractor shall not commence work involving environmental data generation or use until the Government has approved the quality documentation.

(Note: Statement of work includes statements of work to perform projects under work assignments, task orders, delivery orders, etc.)

**E.3 INSPECTION AND ACCEPTANCE (EP 52.246-100) (APR 1984)**

- (a) The Contracting Officer or the duly authorized representative will perform inspection and acceptance of materials and services to be provided.
- (b) For the purposes of this clause, the Project Officer is the authorized representative of the Contracting Officer.
- (c) Inspection and acceptance will be performed as specified by individual work assignments.

**SECTION F - DELIVERIES OR PERFORMANCE****F.1 NOTICE Listing Contract Clauses Incorporated by Reference**

## NOTICE:

The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)

NUMBER	DATE	TITLE
52.242-15	AUG 1989	STOP WORK ORDER ALTERNATE I (APR 1984) DEVIATION

**F.2 MONTHLY PROGRESS REPORT (EPAAR 1552.211-72) (JUN 1996)**

- (a) The Contractor shall furnish 3 copies of the combined monthly technical and financial progress report stating the progress made, including the percentage of the project completed, and a description of the work accomplished to support the cost. If the work is ordered using work assignments or delivery orders, include the estimated percentage of task completed during the reporting period for each work assignment or delivery order.
- (b) Specific discussions shall include difficulties encountered and remedial action taken during the reporting period, and anticipated activity with a schedule of deliverables for the subsequent reporting period.
- (c) The Contractor shall provide a list of outstanding actions awaiting Contracting Officer authorization, noted with the corresponding work assignment, such as subcontractor/consultant consents, overtime approvals, and work plan approvals.
- (d) The report shall specify financial status at the contract level as follows:
  - (1) For the current reporting period, display the amount claimed.
  - (2) For the cumulative period and the cumulative contract life display: the amount obligated, amount originally invoiced, amount paid, amount suspended, amount disallowed, and remaining approved amount. The remaining approved amount is defined as the total obligated amount, less the total amount originally invoiced, plus total amount disallowed.
  - (3) Labor hours.



(4) Display the current dollar ceilings in the contract, net amount invoiced, and remaining amounts for the following categories: Direct labor hours, total estimated cost, award fee pool (if applicable), subcontracts by individual subcontractor, travel, program management, and Other Direct Costs (ODCs).

(5) Unbilled allowable costs. Display the total costs incurred but unbilled for the current reporting period and cumulative for the contract.

(6) Average cost of direct labor. Compare the actual average cost per hour to date with the average cost per hour of the approved work plans for the current contract period.

(e) The report shall specify financial status at the work assignment or delivery order level as follows:

(1) For the current period, display the amount claimed.

(2) For the cumulative period display: amount shown on workplan, or latest work assignment/delivery order amendment amount (whichever is later); amount currently claimed; amount paid; amount suspended; amount disallowed; and remaining approved amount. The remaining approved amount is defined as: the workplan amount or latest work assignment or delivery order amount (whichever is later), less total amounts originally invoiced, plus total amount disallowed.

(3) Labor hours.

(4) Unbilled allowable costs. Display the total costs incurred but unbilled for the current reporting period and cumulative for the work assignment.

(5) Average cost of direct labor. Display the actual average cost per hour with the cost per hour estimated in the workplan.

(6) A list of deliverables for each work assignment or delivery order during the reporting period.

(f) This submission does not change the notification requirements of the "Limitation of Cost" or "Limitation of Funds" clauses requiring separate written notice to the Contracting Officer.

(g) The reports shall be submitted to the following addresses on or before the 15th of each month following the first complete reporting period of the contract. See EPAAR 1552.232-70, Submission of Invoices, paragraph (e), for details on the timing of submittals. Distribute reports as follows:

**Quantity**

**Individual**

1	Contracting Officer
1	Project Officer
1	Work Assignment Manager

**F.3 PERIOD OF PERFORMANCE (EP 52.212-140) (APR 1984)**

The period of performance of this contract shall be from the effective date of the contract through three years exclusive of all required reports.

**F.4 TARGET COST REPORT**

In conjunction with the monthly progress report, the Contractor shall submit a target cost report on a monthly basis. The report must reflect, under each task area, hours and rates for each individual utilized for the current reporting period and cumulative period. Utilize the following format:

Individual	Regulatory Support		Technical Support		Training Support		Meeting/ Logistic Support	
	Current	Cumulative	Current	Cumulative	Current	Cumulative	Current	Cumulative
Name/Grade	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t
Name/Grade	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t
Name/Grade	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t

<b>Totals</b>	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t	Hours/ C o s t
<b>Average Cost Incurred</b>								
<b>Target Cost</b>								

## **SECTION G - CONTRACT ADMINISTRATION DATA**

### **G.1 PAYMENT OF FEE (EPAAR 1552.216-74) (MAY 1991) DEVIATION**

- (a) The term "fee" in this clause refers to either the fixed fee under a cost-plus-fixed-fee type contract, or the base fee under a cost-plus-award-fee type contract.
- (b) The Government will make provisional fee payments on the basis of percentage of work completed. Percentage of work completed is the ratio of direct labor hours performed to the direct labor hours set forth in clause 1552.211-73, "Level of Effort--Cost-Reimbursement Term Contract."

### **G.2 SUBCONTRACTING REPORTS--SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS (EP 52.219-120) (OCT 1991)**

The Contractor shall submit Standard Form (SF) 294, Subcontracting Report for Individual Contracts, and/or SF 295, Summary Contract Report, in accordance with the instructions on the forms.

Submit copies of these reports to:

Distribution	Addressee
original	Contracting Officer
1 copy	Senior Program Manager U.S. EPA Office of Small & Disadvantaged Business Utilization (1230C) Ariel Rios Building 1200 Pennsylvania Avenue, N.W. Washington, D.C. 20460

### **G.3 SUBMISSION OF INVOICES (EPAAR 1552.232-70) (JUN 1996) DEVIATION**

In order to be considered properly submitted, an invoice or request for contract financing payment must meet the following requirements in addition to the requirements of FAR 32.905:

- (a) Unless otherwise specified in the contract, an invoice or request for contract financing payment shall be submitted as an original and five copies. The contractor shall submit the invoice or request for contract financing payment to the following offices/individuals in the contract: the original and two copies to the Accounting Operations office shown in Block 25 on the cover of the contract; two copies to the Project Officer

(the Project Officer may direct one of these copies to a separate address); and one copy to the Contracting Officer.

(b) The Contractor shall prepare its invoice or request for contract financing payment on the prescribed Government forms. Standard Forms Number 1034, Public Voucher for Purchases and Services other than Personal, shall be used by contractors to show the amount claimed for reimbursement. Standard Form 1035, Public Voucher for Purchases and Services other than Personal -Continuation Sheet, shall be used to furnish the necessary supporting detail or additional information required by the Contracting Officer. The Contractor may submit self-designed forms which contain the required information.

(c) (1) The Contractor shall prepare a contract level invoice or request for contract financing payment in accordance with the invoice preparation instructions identified as a separate attachment in Section J of the contract. If contract work is authorized by individual work assignments, the invoice or request for contract financing payment shall also include a summary of the current and cumulative amounts claimed by cost element for each work assignment and for the contract total, as well as any supporting data for each work assignment as identified in the instructions.

(2) The invoice or request for contract financing payment shall include current and cumulative charges by major cost element such as direct labor, overhead, travel, equipment, and other direct costs. For current costs, each major cost element shall include the appropriate supporting schedule identified in the invoice preparation instructions. Cumulative charges represent the net sum of current charges by cost element for the contract period.

(d) (1) The charges for subcontracts shall be further detailed in a supporting schedule showing the major cost elements for each subcontract.

(d) (2) On a case-by-case basis, when needed to verify the reasonableness of subcontractor costs, the Contracting Officer may require that the contractor obtain from the subcontractor cost information in the detail set forth in (c) (2). This information should be obtained through a means which maintains subcontractor confidentiality (for example, via sealed envelopes), if the subcontractor expresses CBI concerns.

(e) Invoices or requests for contract financing payment must clearly indicate the period of performance for which payment is requested. Separate invoices or requests for contract financing payment are required for charges applicable to the basic contract and each option period.

(f) (1) Notwithstanding the provisions of the clause of this contract at FAR 52.216-7, Allowable Cost and Payment, invoices or requests for contract financing payment shall be submitted once per month unless there has been a demonstrated need and Contracting Officer approval for more frequent billings. When submitted on a monthly basis, the period covered by invoices or requests for contractor financing payments shall

be the same as the period for monthly progress reports required under this contract.

(2) If the Contracting Officer allows submissions more frequently than monthly, one submittal each month shall have the same ending period of performance as the monthly progress report.

(3) Where cumulative amounts on the monthly progress report differ from the aggregate amounts claimed in the invoice(s) or request(s) for contract financing payments covering the same period, the contractor shall provide a reconciliation of the difference as part of the payment request.

#### **G.4 INDIRECT COSTS (EPAAR 1552.242-70) (APR 1984) DEVIATION**

- (a) In accordance with paragraph (d) of the "Allowable Cost and Payment" clause, the final indirect cost rates applicable to this contract shall be established between the Contractor and the appropriate Government representative (EPA, other Government agency, or auditor), as provided by FAR 42.703-1(a). EPA's procedures require a Contracting Officer determination of indirect cost rates for its contracts. In those cases where EPA is the cognizant agency (see FAR 42.705-1), the final rate proposal shall be submitted to the cognizant audit activity and to the following:

Environmental Protection Agency  
Chief, Cost and Rate Negotiation Service Center  
Office of Acquisition Management (3802R)  
Ariel Rios Building  
1200 Pennsylvania Avenue, N.W.  
Washington, D. C. 20460

The Contractor shall also follow the notification and cost impact procedures prescribed in paragraph (b) below.

Where EPA is not the cognizant agency, the final rate proposal shall be submitted to the above-cited address, to the cognizant audit agency, and to the designated Contracting Officer of the cognizant agency. Upon establishment of the final indirect cost rates, the Contractor shall submit an executed Certificate of Current Cost or Pricing Data (see FAR 15.406-2) applicable to the data furnished in connection with the final rates to the cognizant audit agency. The final rates shall be contained in a written understanding between the Contractor and the appropriate Government representative. Pursuant to the "Allowable Cost and Payment" clause, the allowable indirect costs under this contract shall be obtained by applying the final agreed upon rate(s) to the appropriate bases.

- (b) Until final annual indirect cost rates are established for any period, the Government shall reimburse the Contractor at billing rates established by the appropriate Government representative in accordance with FAR 42.704, by means of a separate indirect cost rate agreement or a contract modification subject to adjustment when the final rates are established. The established billing rates are currently as follows:

Cost Center\*  
 Period  
 Rate  
 Base

These billing rates may be prospectively or retroactively revised by mutual agreement, at the request of either the Government or the Contractor, to prevent substantial overpayment or underpayment.

(1) For any retroactive indirect cost rate adjustments (i.e., indirect costs already billed), including final indirect cost rate adjustments, the Contractor shall provide to the Cost Policy and Rate Negotiation Section, with copies to the current EPA Contracting Officers of active contracts, a cost impact statement showing the effect of the indirect cost rate changes for each contract. This statement shall compare the cost billed to the cost the Contractor proposes to bill.

(2) For prospective indirect cost rate adjustments only, the Contractor shall notify the current EPA Contracting Officers of the new proposed rates when it proposes rates to the Cost Policy and Rate Negotiation Section.

(3) For either prospective or retroactive indirect cost rate adjustments, the Contractor shall provide the Cost Policy and Rate Negotiation Section with the names of the current EPA Contracting Officers for the affected contracts.

- (c) Notwithstanding the provisions of paragraphs (a) and (b) above, ceilings are hereby established on indirect costs reimbursable under this contract. The Government shall not be obligated to pay the Contractor any additional amount on account of indirect costs in excess of the ceiling rates listed below:

Cost Center\*  
 Period  
 Rate  
 Base

The ceiling rates specified above are applicable from the effective date of the contract through the end of the period of performance including any option periods.

\* To be inserted at time of contract award.

#### **G.5 CERTIFICATE OF INDIRECT COSTS (EPAAR 1552.242-71) (OCT 1992) DEVIATION**

- (a) The contractor shall--

- (1) Certify any proposal to establish or modify billing rates or to establish final indirect cost rates;
- (2) Use the format in paragraph (b) of this clause to certify; and

(3) Have the certificate signed by an individual of the contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the contractor that submits the proposal.

- (b) Failure by the contractor to submit a signed certificate, as set forth below, shall result in payment of indirect costs at rates unilaterally established by the Government.

#### Certificate of Indirect Costs

This is to certify that to the best of my knowledge and belief:

1. I have reviewed this indirect cost proposal;
2. All costs included in this proposal (identify proposal and date) to establish billing or final indirect cost rates for (identify period covered by rate) are allowable in accordance with the requirements of contracts to which they apply and with the cost principles of the Federal Acquisition Regulation applicable to those contracts;
3. This proposal does not include any costs which are unallowable under applicable cost principles of the FAR; and
4. All costs included in this proposal are properly allocable to Government contracts on the basis of a beneficial or causal relationship between the expenses incurred and the contracts to which they are allocated in accordance with applicable acquisition regulations.

Providing false information in connection with any certified indirect cost proposal may lead to substantial criminal penalties, civil liabilities or the imposition of administrative sanctions. Relevant statutes include, among others, 18 U.S.C. 286 (Conspiracy to Defraud), 18 U.S.C. 287 (False Claims), 18 U.S.C. 641 (Theft), 18 U.S.C. 1001 (False Statements), 18 U.S.C. 1343 (Wire Fraud), 31 U.S.C. 3729 (Civil False Claims), and 31 U.S.C. 3801 (Program Fraud). Debarment or suspension may be required under FAR Subpart 9.4 for submittal of a false certificate of indirect costs.

FIRM: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

NAME OF OFFICIAL: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE OF EXECUTION: \_\_\_\_\_

#### **G.6 CONTRACT ADMINISTRATION REPRESENTATIVES (EP 52.242-100) (AUG 1984)**

Project Officer(s) for this contract: \*



Contract Specialist(s) responsible for administering this contract: \*

Administrative Contracting Officer: \*

\* To be identified at time of contract award

**G.7 SUBCONTRACT CONSENT (EP 52.244-100) (APR 1984)**

The Contractor shall submit the information required by the "Subcontracts," clause to the Contracting Officer and assigned Work Assignment Manager. The Contracting Officer will provide written notice to the Contractor of his or her decision.

To consent to the following subcontracts:

---

TBD

**G.8 GOVERNMENT-FURNISHED DATA (EPAAR 1552.245-71) (APR 1984) DEVIATION**

- (a) The Government shall deliver to the Contractor the Government-furnished data described in the contract. If the data, suitable for its intended use, is not delivered to the Contractor, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:
  - (1) The Contractor submits a timely written request for an equitable adjustment; and
  - (2) The facts warrant an equitable adjustment.
- (b) Title to Government-furnished data shall remain in the Government.
- (c) The Contractor shall use the Government-furnished data only in connection with this contract.
- (d) The data will be furnished to the Contractor as specified in the individual work assignments.

## SECTION H - SPECIAL CONTRACT REQUIREMENTS

### H.1 PRINTING (EPAAR 1552.208-70) (OCT 2000) DEVIATION

#### (a) *Definitions.*

"Printing" is the process of composition, plate making, presswork, binding and microform; or the end items produced by such processes and equipment. Printing services include newsletter production and periodicals which are prohibited under EPA contracts.

"Composition" applies to the setting of type by hot-metal casting, photo typesetting, or electronic character generating devices for the purpose of producing camera copy, negatives, a plate or image to be used in the production of printing or microform.

"Camera copy" (or "camera-ready copy") is a final document suitable for printing/duplication.

"Desktop Publishing" is a method of composition using computers with the final output or generation of camera copy done by a color inkjet or color laser printer. This is not considered "printing." However, if the output from desktop publishing is being sent to a typesetting device (i.e., Linotronic) with camera copy being produced in either paper or negative format, these services are considered "printing".

"Microform" is any product produced in a miniaturized image format, for mass or general distribution and as a substitute for conventionally printed material. Microform services are classified as printing services and includes microfiche and microfilm. The contractor may make up to two sets of microform files for archival purposes at the end of the contract period of performance.

"Duplication" means the making of copies on photocopy machines employing electrostatic, thermal, or other processes without using an intermediary such as a negative or plate.

"Requirement" means an individual photocopying task. (There may be multiple requirements under a Work Assignment or Delivery Order. Each requirement would be subject to the photocopying limitation of 5,000 copies of one page or 25,000 copies of multiple pages in the aggregate per requirement).

#### (b) *Prohibition.*

The contractor shall not engage in, nor subcontract for, any printing in connection with the performance of work under this contract. Duplication of more than 5,000 copies of one page or more than 25,000 copies of multiple pages in the aggregate per requirement constitutes printing. The intent of the limitation is not to allow the duplication of final documents for use by the Agency. In compliance with EPA Order 2200.4a, EPA Publication Review Procedure, the Office of Communications, Education, and Media Relations is responsible for the review of materials generated under a contract published or issued by the Agency under a contract intended for release to the public.

(c) *Affirmative Requirements.*

(1) Unless otherwise directed by the contracting officer, the contractor shall use double-sided copying to produce any progress report, draft report or final report.

(2) Unless otherwise directed by the contracting officer, the contractor shall use recycled paper for reports delivered to the Agency which meet the minimum content standards for paper and paper products as set forth in EPA's Web site for the Comprehensive Procurement Guidelines at: <http://www.epa.gov/cpg/>.

(d) *Permitted Contractor Activities.*

(1) The prohibitions contained in paragraph (b) do not preclude writing, editing, or preparing manuscript copy, or preparing related illustrative material to a final document (camera-ready copy) using desktop publishing.

(2) The contractor may perform a requirement involving the duplication of less than 5,000 copies of only one page, or less than 25,000 copies of multiple pages in the aggregate, using one color (black), so long as such pages do not exceed the maximum image size of 10\3/4\ by 14\1/4\ inches, or 11 by 17 paper stock. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U. S. Congress. The intent of the limitation is to allow "incidental" duplication (drafts, proofs) under a contract. The intent of the limitation is not to allow the duplication of copies of final documents for use by the Agency or as distributed as instructed by the Agency.

(3) The contractor may perform a requirement involving the multi-color duplication of no more than 100 pages in the aggregate using color copier technology, so long as such pages do not exceed the maximum image size of 10\3/4\ by 14\1/4\ inches, or 11 by 17 paper stock. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U. S. Congress.

(4) The contractor may perform the duplication of no more than a total of 100 diskettes or CD-ROM's. Duplication services below these thresholds are not considered printing. If performance of the contract will require duplication in excess of these limits, contractors must immediately notify the contracting officer in writing. EPA may then seek a waiver from the Joint Committee on Printing, U. S. Congress.

(e) *Violations.*

The contractor may not engage in, nor subcontract for, any printing in connection with the performance of work under the contract. The cost of any printing services in violation of this clause will be disallowed, or not accepted by the Government.

(f) *Flowdown Provision.*

The contractor shall include in each subcontract which may involve a requirement for any printing/duplicating/copying a provision substantially the same as this clause.

**H.2 ORGANIZATIONAL CONFLICTS OF INTEREST (EPAAR 1552.209-71) (MAY 1994)  
ALTERNATE I (MAY 1994) DEVIATION**

- (a) The Contractor warrants that, to the best of the Contractor's knowledge and belief, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest, as defined in FAR Subpart 9.5, or that the Contractor has disclosed all such relevant information.
- (b) Prior to commencement of any work, the Contractor agrees to notify the Contracting Officer immediately that, to the best of its knowledge and belief, no actual or potential conflict of interest exists or to identify to the Contracting Officer any actual or potential conflict of interest the firm may have. In emergency situations, however, work may begin but notification shall be made within five (5) working days.
- (c) The Contractor agrees that if an actual or potential organizational conflict of interest is identified during performance, the Contractor will immediately make a full disclosure in writing to the Contracting Officer. This disclosure shall include a description of actions which the Contractor has taken or proposes to take, after consultation with the Contracting Officer, to avoid, mitigate, or neutralize the actual or potential conflict of interest. The Contractor shall continue performance until notified by the Contracting Officer of any contrary action to be taken.
- (d) Remedies - The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to avoid an organizational conflict of interest. If the Contractor was aware of a potential organizational conflict of interest prior to award or discovered an actual or potential conflict after award and did not disclose it or misrepresented relevant information to the Contracting Officer, the Government may terminate the contract for default, debar the Contractor from Government contracting, or pursue such other remedies as may be permitted by law or this contract.
- (e) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the Contracting Officer.

**H.3 NOTIFICATION OF CONFLICTS OF INTEREST REGARDING PERSONNEL (EPAAR 1552.209-73) (MAY 1994) ALTERNATE I (JUN 1994) DEVIATION**

- (a) In addition to the requirements of the contract clause entitled "Organizational Conflicts of Interest," the following provisions with regard to employee personnel performing under this contract shall apply until the earlier of the following two dates: the termination date of the affected employee(s) or the expiration date of the contract.

- (b) The Contractor agrees to notify immediately the EPA Project Officer and the Contracting Officer of (1) any actual or potential personal conflict of interest with regard to any of its employees working on or having access to information regarding this contract, or (2) any such conflicts concerning subcontractor employees or consultants working on or having access to information regarding this contract, when such conflicts have been reported to the Contractor. A personal conflict of interest is defined as a relationship of an employee, subcontractor employee, or consultant with an entity that may impair the objectivity of the employee, subcontractor employee, or consultant in performing the contract work.
- (c) The Contractor agrees to notify each Project Officer and Contracting Officer prior to incurring costs for that employee's work when an employee may have a personal conflict of interest. In the event that the personal conflict of interest does not become known until after performance on the contract begins, the Contractor shall immediately notify the Contracting Officer of the personal conflict of interest. The Contractor shall continue performance of this contract until notified by the Contracting Officer of the appropriate action to be taken.
- (d) The Contractor agrees to insert in any subcontract or consultant agreement placed hereunder provisions which shall conform substantially to the language of this clause, including this paragraph (d), unless otherwise authorized by the Contracting Officer.

**H.4 LIMITATION OF FUTURE CONTRACTING (HEADQUARTERS SUPPORT) (EPAAR 1552.209-74) (MAR 1997) ALTERNATE V (MAY 1994)**

- (a) The parties to this contract agree that the Contractor will be restricted in its future contracting in the manner described below. Except as specifically provided in this clause, the Contractor shall be free to compete for contracts on an equal basis with other companies.
- (b) If the Contractor, under the terms of this contract, or through the performance of work pursuant to this contract, is required to develop specifications or statements of work and such specifications or statements of work are incorporated into an EPA solicitation, the Contractor shall be ineligible to perform the work described in that solicitation as a prime Contractor or subcontractor under an ensuing EPA contract.
- (c) Unless prior written approval is obtained from the cognizant EPA Contracting Officer, the Contractor, during the life of this contract, agrees not to enter into a contract or subcontract with or to represent any party, other than EPA, that owns, operates, or has a significant financial business interest in the oil industry.

"Owns or operates" is defined for the purposes of this proposal in the Federal Register (40 CFR 260.10 and 45 FR 33169).

"Oil Industry" is defined as any industry that includes (a) edible and nonedible oils and related products, devices and affiliation related to

non-transportation facilities that handle, store, or transport oil; or  
(b) any emerging or existing remediation technologies, products, devices, chemical and/or biological agents used in oil spill mitigation per 40 CFR 300.900.

- (d) The Contractor agrees in advance that if any bids/proposals are submitted for any work that would require written approval of the Contracting Officer prior to entering into a contract subject to the restrictions of this clause, then the bids/proposals are submitted at the Contractor's own risk. Therefore, no claim shall be made against the Government to recover bid/proposal costs as a direct cost whether the request for authorization to enter into the contract is denied or approved.
- (e) To the extent that the work under this contract requires access to proprietary or confidential business or financial data of other companies, and as long as such data remains proprietary or confidential, the Contractor shall protect such data from unauthorized use and disclosure.
- (f) The Contractor agrees to insert in each subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for nondiscretionary technical or engineering services, including treatability studies, well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph (f), unless otherwise authorized by the Contracting Officer. The Contractor may request in writing that the Contracting Officer exempt from this clause a particular subcontract or consultant agreement for nondiscretionary technical or engineering services not specifically listed above, including laboratory analysis. The Contracting Officer will review and evaluate each request on a case-by-case basis before approving or disapproving the request.
- (g) If the Contractor seeks an expedited decision regarding its initial future contracting request, the Contractor may submit its request to both the Contracting Officer and the next administrative level within the Contracting Officer's organization.
- (h) A review process available to the Contractor when an adverse determination is received shall consist of a request for reconsideration to the Contracting Officer or a request for review submitted to the next administrative level within the Contracting Officer's organization. An adverse determination resulting from a request for reconsideration by the Contracting Officer will not preclude the Contractor from requesting a review by the next administrative level. Either a request for review or a request for reconsideration must be submitted to the appropriate level within 30 calendar days after receipt of the initial adverse determination.

#### **H.5 ANNUAL CERTIFICATION (EPAAR 1552.209-75) (MAY 1994) DEVIATION**

The Contractor shall submit an annual conflict of interest certification to the Contracting Officer. In this certification, the Contractor shall

certify annually that, to the best of the Contractor's knowledge and belief, all actual or potential organizational conflicts of interest have been reported to EPA. In addition, in this annual certification, the Contractor shall certify that it has informed its personnel who perform work under EPA contracts or relating to EPA contracts of their obligation to report personal and organizational conflicts of interest to the Contractor. Such certification must be signed by a senior executive of the company and submitted in accordance with instructions provided by the Contracting Officer. The initial certification shall cover the one-year period from the date of contract award, and all subsequent certifications shall cover successive annual periods thereafter, until expiration or termination of the contract. The certification must be received by the Contracting Officer no later than 45 days after the close of the certification period covered.

#### **H.6 CONTRACTOR PERFORMANCE EVALUATIONS (EPAAR 1552.209-76) (MAY 1999) DEVIATION**

The contracting officer shall complete a Contractor Performance Report (Report) within ninety (90) business days after the end of each 12 months of contract performance (interim Report) or after the last 12 months (or less) of contract performance (final Report) in accordance with EPAAR 1509.170-5. The contractor shall be evaluated based on the following ratings and performance categories:

Ratings: 0 = unsatisfactory,  
           1 = poor,  
           2 = fair,  
           3 = good,  
           4 = excellent,  
           5 = outstanding.

#### Performance Categories:

Quality: Compliance with contract requirements; accuracy of reports; effectiveness of personnel; and technical excellence.

#### Rating

- 0--Contractor is not in compliance and is jeopardizing achievement of contract objectives
- 1--Major problems have been encountered
- 2--Some problems have been encountered
- 3--Minor inefficiencies/errors have been identified
- 4--Contractor is in compliance with contract requirements and/or delivers quality products/services
- 5--The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Cost Control: Record of forecasting and controlling target costs; current, accurate and complete billings; relationship of negotiated costs to actuals; cost efficiencies.

Rating

- 0--Contractor is unable to manage costs effectively
- 1--Contractor is having major difficulty managing costs effectively
- 2--Contractor is having some problems managing costs effectively
- 3--Contractor is usually effective in managing costs
- 4--Contractor is effective in managing costs and submits current, accurate, and complete billings
- 5--The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Timeliness of Performance: Met interim milestones; reliability; responsive to technical direction; completed on time, including wrap-up and contract administration; met delivery schedules; no liquidated damages assessed.

Rating

- 0--Contractor delays are jeopardizing performance of contract objectives
- 1--Contractor is having major difficulty meeting milestones and delivery schedule
- 2--Contractor is having some problems meeting milestones and delivery schedule
- 3--Contractor is usually effective in meeting milestones and delivery schedule
- 4--Contractor is effective in meeting milestones and delivery schedule
- 5--The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

Business Relations: Effective management, including subcontracts; reasonable/cooperative behavior; responsive to contract requirements; notification of problems; flexibility; pro-active versus reactive; effective small/small disadvantage business subcontracting program.

Rating

- 0--Response to inquiries, technical/service/administrative issues is not effective
- 1--Response to inquiries, technical/service/administrative issues is marginally effective
- 2--Response to inquiries, technical/service/administrative issues is somewhat effective
- 3--Response to inquiries, technical/service/administrative issues is usually effective
- 4--Response to inquiries, technical/service/administrative issues is effective



5--The contractor has demonstrated an outstanding performance level that justifies adding a point to the score. It is expected that this rating will be used in those circumstances when contractor performance clearly exceeds the performance level described as "Excellent."

- (a) The contracting officer shall initiate the process for completing interim Reports within five (5) business days after the end of each 12 months of contract performance by requesting the project officer to evaluate contractor performance for the interim Report. In addition, the contracting officer shall initiate the process for completing final Reports within five (5) business days after the last 12 months (or less) of contract performance by requesting the project officer to evaluate contractor performance for the final Report. The final Report shall cover the last 12 months (or less) of contract performance. Within thirty (30) business days after the project officer receives a request from the contracting officer to complete an evaluation, the project officer shall:

- (1) Complete a description of the contract requirements;
- (2) Evaluate contractor performance and assign a rating for quality, cost control, and timeliness of performance categories (including a narrative for each rating);
- (3) Provide any information regarding subcontracts, key personnel, and customer satisfaction;
- (4) Assign a recommended rating for the business relations performance category (including a narrative for the rating); and
- (5) Provide additional information appropriate for the evaluation or future evaluations.

- (b) The contracting officer shall:

- (1) Ensure the accuracy of the project officer's evaluation by verifying that the information in the contract file corresponds with the designated project officer's ratings;
- (2) Assign a rating for the business relations performance category (including a narrative for the rating);
- (3) Concur with or revise the project officer's ratings after consultation with the project officer;
- (4) Provide any additional information concerning the quality, cost control, and timeliness of performance categories if deemed appropriate for the evaluation or future evaluations (if any), and provide any information regarding subcontracts, key personnel, and customer satisfaction; and
- (5) Forward the Report to the contractor within ten (10) business days after the contracting officer receives the project officer's evaluation.

- (c) The contractor shall be granted thirty (30) business days from the date of the contractor's receipt of the Report to review and provide a response to the contracting officer regarding the contents of the Report. The contractor shall:
- (1) Review the Report;
  - (2) Provide a response (if any) to the contracting officer on company letter head or electronically;
  - (3) Complete contractor representation information; and
  - (4) Forward the Report to the contracting officer within the designated thirty (30) business days.
- (d) The contractor's response to the Report may include written comments, rebuttals (disagreements), or additional information. If the contractor does not respond to the Report within the designated thirty (30) business days, the specified ratings in the Report are deemed appropriate for the evaluation period. In this instance, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after expiration of the specified 30 business days.
- (e) If the contractor submits comments, rebuttals (disagreements), or additional information to the contracting officer which contests the ratings, the contracting officer, in consultation with the project officer, shall initially try to resolve the disagreement(s) with the contractor.
- (f) If the disagreement(s) is (are) not resolved between the contractor and the contracting officer, the contracting officer shall provide a written recommendation to one level above the contracting officer for resolution as promptly as possible, but no later than five (5) business days after the contracting officer is made aware that the disagreement(s) has (have) not been resolved with the contractor. The individual who is one level above the contracting officer shall:
- (1) Review the contracting officer's written recommendation; and
  - (2) Provide a written determination to the contracting officer for summary ratings (ultimate conclusion for ratings pertaining to the performance period being evaluated) within five (5) business days after the individual one level above the contracting officer receives the contracting officer's written recommendation.
- (g) If the disagreement is resolved, the contracting officer shall complete the Agency review and sign the Report within three (3) business days after consultation.
- (h) The contracting officer shall complete the Agency review and sign the Report within three (3) business days after the contracting officer receives a written determination for summary ratings from one level above the contracting officer.

- (i) An interim or final Report is considered completed after the contracting officer signs the Report. The contracting officer must provide a copy of completed Reports (interim and final) to the contractor within two (2) business days after completion.

**H.7 OPTION TO EXTEND THE TERM OF THE CONTRACT--COST-TYPE CONTRACT (EPAAR 1552.217-71) (APR 1984) DEVIATION**

The Government has the option to extend the term of this contract for 2 additional periods. If more than 60 days remain in the contract period of performance, the Government, without prior written notification, may exercise this option by issuing a contract modification. To exercise this option within the last 60 days of the period of performance, the Government must provide to the Contractor written notification prior to that last 60-day period. This preliminary notification does not commit the Government to exercising the option. Use of an option will result in the following contract modifications:

- (a) The "Period of Performance" clause will be amended as follows to cover the Base and Option Periods:

<u>Option Period</u>	<u>Period Length</u>	<u>Start Date</u>
Option Period I	2 years	3 years after the date of contract award
Option Period II	2 years	2 years after start date of Option Period I

- (b) Paragraph (a) of the "Level of Effort" clause will be amended to reflect a new and separate level of effort of:

<u>Option Period</u>	<u>Level of Effort (Direct Labor Hours)</u>
Option Period I	26,500
Option Period II	26,500

- (c) The "Estimated Cost" clause will be amended to reflect increased estimated costs for each option period as follows:

<u>Option Period</u>	<u>Estimated Cost</u>	<u>Fixed Fee</u>	<u>Total</u>
Option Period I	*	*	*
Option Period II	*	*	*

- (d) If this contract contains "not to exceed amounts" for elements of other direct costs (ODC), those amounts will be increased as follows:

<u>Option Period</u>	<u>Travel</u>	<u>ODCs</u>
Option Period I	\$26,500	\$123,544
Option Period II	\$28,885	\$128,661

\* To be completed at time of contract award

#### **H.8 OPTION FOR INCREASED QUANTITY--COST-TYPE CONTRACT (EPAAR 1552.217-73) (JUN 1997) DEVIATION**

- (a) By issuing a contract modification, the Government may increase the estimated level of effort by:

<u>Option Period</u>	<u>Level of Effort (Direct Labor Hours)</u>
Base Period	20,000
Option Period I	13,500
Option Period II	13,500

The Government may issue a maximum of 10 orders to increase the level of effort in multiples of 2000 hours during the base period, and a maximum of 10 orders to increase the level of effort in multiples of 1350 hours during each option period.

The estimated cost of each block of hours is as follows:

<u>Period of Performance</u>	<u>Estimated Cost</u>	<u>Fee</u>	<u>Total</u>
Base Period	*	*	*
Option Period I	*	*	*
Option Period II	*	*	*

The charges for each block of hours associated with travel and other direct costs related to work assignments are as follows:

<u>Period of Performance</u>	<u>Travel</u>	<u>Other Direct Costs</u>
Base Period	\$2,000.00	\$9,053.30
Option Period I	\$1,350.00	\$6,291.40
Option Period II	\$1,471.50	\$6,551.90

- (b) When these options are exercised, paragraph (a) of the "Level of Effort" clause and the "Estimated Cost" clause and the "Other Direct Costs" clause will be modified accordingly.

\* To be completed at time of contract award

#### **H.9 SMALL DISADVANTAGED BUSINESS TARGETS (EPAAR 1552.219-73) (OCT 2000)**

- (a) In accordance with FAR 19.1202-4(a) and EPAAR 52.219-72, the following small disadvantaged business (SDB) participation targets proposed by the contractor are hereby incorporated into and made part of the contract:

Contractor Targets	NAICS Major Group	Dollars	Percentage of Total Contract Value
Total Prime Contractor Targets (Including joint venture partners)	*	*	*
Total Subcontractor Targets	*	*	*

(b) The following specifically identified SDB(s) was (were) considered under the Section M-SDB participation evaluation factor or subfactor (continue on separate sheet if more space is needed):

- (1) \*
- (2) \*
- (3) \*
- (4) \*
- (5) \*

The contractor shall promptly notify the contracting officer of any substitution of firms if the new firms are not SDB concerns.

(c) In accordance with FAR 52.219-25, Small Disadvantaged Business Participation Program - Disadvantaged Status and Reporting, the contractor shall report on the participation of SDB concerns in the performance of the contract no less than thirty (30) calendar days prior to each annual contractor performance evaluation [contracting officer may insert the dates for each performance evaluation (i.e., every 12 months after the effective date of contract)] or as otherwise directed by the contracting officer.

\* To be completed at time of contract award

#### **H.10 UTILIZATION OF RURAL AREA SMALL BUSINESS CONCERNS (EP 52.219-110) (APR 1990)**

(a) (1) "Rural area small business concern," as used in this clause, means a small business concern that is located and conducts its principal operations in a rural geographic area (county or parish) listed in the Small Business Administration's Listing of Non-Metropolitan Rural Counties by State.

(2) "Small business concern," as used in this clause, means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on government contracts, and qualified as a small business under the criteria and size standard in 13 CFR 121.

- (b) It is the policy of the Environmental Protection Agency (EPA) that rural area small business concerns shall have the maximum practicable opportunity to participate in performing contracts awarded by EPA.
- (c) The contractor shall use its best efforts to give rural area small business concerns the opportunity to participate in the subcontracts it awards to the fullest extent consistent with efficient performance of this contract.
- (d) The contractor shall incorporate the substance of this clause in any subcontract that may provide for additional subcontracting opportunities.

**H.11 UTILIZATION OF HISTORICALLY BLACK COLLEGES AND UNIVERSITIES (EP 52.219-115) (JUL 1991)**

- (a) It is the Policy of the Environmental Protection Agency that historically black colleges and universities shall have the maximum practicable opportunity to participate in performing contracts awarded by the Agency.
- (b) The Contractor shall use its best efforts to give historically black colleges and universities the opportunity to participate in any subcontracts awarded to the fullest extent consistent with efficient performance of this contract.
- (c) The contractor shall incorporate the substance of this clause in any subcontract which may provide for additional subcontracting opportunities.

**H.12 PROJECT EMPLOYEE CONFIDENTIALITY AGREEMENT (EPAAR 1552.227-76) (MAY 1994) DEVIATION**

- (a) The Contractor recognizes that Contractor employees in performing this contract may have access to data, either provided by the Government or first generated during contract performance, of a sensitive nature which should not be released to the public without Environmental Protection Agency (EPA) approval. Therefore, the Contractor agrees to obtain confidentiality agreements from all of its employees working on requirements under this contract.
- (b) Such agreements shall contain provisions which stipulate that each employee agrees that the employee will not disclose, either in whole or in part, to any entity external to EPA, the Department of Justice, or the Contractor, any information or data (as defined in FAR Section 27.401) provided by the Government or first generated by the Contractor under this contract, any site-specific cost information, or any enforcement strategy without first obtaining the written permission of the EPA Contracting Officer. If a contractor, through an employee or otherwise, is subpoenaed to testify or produce documents, which could result in such disclosure, the Contractor must provide immediate advance notification to the EPA so that the EPA can authorize such disclosure or have the opportunity to take action to prevent such disclosure. Such agreements shall be effective for the life of the contract and for a period of five (5) years after completion of the contract.

- (c) The EPA may terminate this contract for convenience, in whole or in part, if it deems such termination necessary to prevent the unauthorized disclosure of information to outside entities. If such a disclosure occurs without the written permission of the EPA Contracting Officer, the Government may terminate the contract, for default or convenience, or pursue other remedies as may be permitted by law or this contract.
- (d) The Contractor further agrees to insert in any subcontract or consultant agreement placed hereunder, except for subcontracts or consultant agreements for well drilling, fence erecting, plumbing, utility hookups, security guard services, or electrical services, provisions which shall conform substantially to the language of this clause, including this paragraph, unless otherwise authorized by the Contracting Officer.

**H.13 INSURANCE LIABILITY TO THIRD PERSONS (EPAAR 1552.228-70) (OCT 2000) DEVIATION**

- (a) (1) Except as provided in subparagraph (2) below, the Contractor shall provide and maintain workers' compensation, employer's liability, comprehensive general liability (bodily injury), and comprehensive automobile liability (bodily injury and property damage) insurance, and such other insurance as the Contracting officer may require under this contract.
  - (2) The Contractor may, with the approval of the Contracting officer, maintain a self-insurance program; provided that, with respect to workers' compensation, the Contractor is qualified pursuant to statutory authority.
  - (3) All insurance required by this paragraph shall be in a form and amount and for those periods as the Contracting officer may require or approve and with insurers approved by the Contracting officer.
- (b) The Contractor agrees to submit for the Contracting officer's approval, to the extent and in the manner required by the Contracting officer, any other insurance that is maintained by the Contractor in connection with the performance of this contract and for which the Contractor seeks reimbursement.
- (c) The Contractor shall be reimbursed for that portion of the reasonable cost of insurance allocable to this contract, and required or approved under this clause, in accordance with its established cost accounting practices.

**H.14 INSURANCE COVERAGE (EP 52.228-100) (JUL 1993)**

As provided in paragraph (a)(1) of EPAAR 1552.228-70, "Insurance Liability to Third Persons", the Contractor shall maintain the minimum amounts of liability insurance coverage set forth in FAR 28.307-2, unless otherwise required by the Contracting Officer.

**H.15 STATE AND LOCAL TAXES (EPAAR 1552.229-70) (NOV 1989) DEVIATION**

In accordance with FAR 29.303 and FAR 31.205-41, the Contractor or any subcontractor under this contract shall not be reimbursed for payment of

any State and local taxes for which an exemption is available. The Contractor is responsible for determining the availability of State and local tax exemptions and obtaining such exemptions, if available. The Contractor shall include this clause, suitably modified to identify the parties, in all subcontracts at any tier. The Contractor shall notify the Contracting Officer if problems arise in obtaining a State and local tax exemption. The contractor may seek a waiver by the Contracting Officer from this requirement if the administrative burden of seeking an exemption appears to outweigh the potential savings to the Government.

**H.16 SCREENING BUSINESS INFORMATION FOR CLAIMS OF CONFIDENTIALITY (EPAAR 1552.235-70) (APR 1984) DEVIATION**

- (a) Whenever collecting information under this contract, the Contractor agrees to comply with the following requirements:

(1) If the Contractor collects information from public sources, such as books, reports, journals, periodicals, public records, or other sources that are available to the public without restriction, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(2) If the Contractor collects information from a State or local Government or from a Federal agency, the Contractor shall submit a list of these sources to the appropriate program office at the time the information is initially submitted to EPA. The Contractor shall identify the information according to source.

(3) If the Contractor collects information directly from a business or from a source that represents a business or businesses, such as a trade association:

(i) Before asking for the information, the Contractor shall identify itself, explain that it is performing contractual work for the Environmental Protection Agency, identify the information that it is seeking to collect, explain what will be done with the information, and give the following notice:

(A) You may, if you desire, assert a business confidentiality claim covering part or all of the information. If you do assert a claim, the information will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2, Subpart B.

(B) If no such claim is made at the time this information is received by the Contractor, it may be made available to the public by the Environmental Protection Agency without further notice to you.

(C) The Contractor shall, in accordance with FAR Part 9, execute a written agreement regarding the limitations of the use of this information and forward a copy of the agreement to the Contracting Officer.



(ii) Upon receiving the information, the Contractor shall make a written notation that the notice set out above was given to the source, by whom, in what form, and on what date.

(iii) At the time the Contractor initially submits the information to the appropriate program office, the Contractor shall submit a list of these sources, identify the information according to source, and indicate whether the source made any confidentiality claim and the nature and extent of the claim.

- (b) The Contractor shall keep all information collected from nonpublic sources confidential in accordance with the clause in this contract entitled "Treatment of Confidential Business Information" as if it had been furnished to the Contractor by EPA.
- (c) The Contractor agrees to obtain the written consent of the Contracting Officer, after a written determination by the appropriate program office, prior to entering into any subcontract that will require the subcontractor to collect information. The Contractor agrees to include this clause, including this paragraph (c), and the clause entitled "Treatment of Confidential Business Information" in all subcontracts awarded pursuant to this contract that require the subcontractor to collect information.

**H.17 TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-71) (APR 1984) DEVIATION**

- (a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information (CBI) to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the CBI only under the following conditions:
  - (1) The Contractor and Contractor's employees shall: (i) use the CBI only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than properly cleared EPA employees without the prior written approval of the Assistant General Counsel for Contracts and Information Law; and (iii) return to the Contracting Officer all copies of the information, and any abstracts or excerpts therefrom, upon request by the Contracting Officer, whenever the information is no longer required by the Contractor for the performance of the work required by the contract, or upon completion of the contract.
  - (2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.
  - (3) The Contractor agrees that these contract conditions concerning the use and disclosure of CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected businesses having a proprietary interest in the information.

(4) The Contractor shall not use any CBI supplied by EPA or obtained during performance hereunder to compete with any business to which the CBI relates.

- (b) The Contractor agrees to obtain the written consent of the CO, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of CBI by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

**H.18 DATA SECURITY--FIFRA AND/OR TSCA CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-72) (APR 1984) DEVIATION**

The Contractor shall handle Federal Insecticide Fungicide Rodenticide Act (FIFRA) and/or Toxic Substances Control Act (TSCA) confidential business information in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality," and the provisions set forth below.

- (a) The Contracting Officer, after a written determination by the appropriate program office, may disclose confidential business information to the Contractor necessary to carry out the work required under this contract. The Contractor shall protect the confidential business information and confidential business information used in its computer operations in accordance with the following requirements:

- (1) The Contractor and Contractor's employees shall follow the security procedures set forth in the manual entitled "Contractor Requirements for the Control and Security of TSCA Confidential Business Information." The manual may be obtained from the Director, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, D. C. 20460.

- (2) The Contractor shall, upon request by the Contracting Officer, permit access to and inspection of the Contractor's facilities in use under this contract by representatives of EPA's Assistant Administrator for Administration and Resources Management, EPA's Program Support Division of the Office of Pesticide Programs, EPA's Information Management Division of the Office of Toxic Substances, or by the Project Officer.

- (3) The Contractor Document Control Officer (DCO) shall obtain a signed copy of the FIFRA/TSCA "Contractor Employee Confidentiality Agreement" from each of the Contractor's employees who will have access to the information before the employee is allowed access.

- (b) The Contractor agrees that these requirements concerning protection of confidential business information are included for the benefit of, and shall be enforceable by, both EPA and any affected business having a proprietary interest in the information.

- (c) The Contractor understands that confidential business information obtained by EPA under FIFRA and/or TSCA may not be disclosed except as authorized by the Act(s), and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in FIFRA [7 U.S.C. 136h(f)] and/or TSCA [15 U.S.C. 2613(d)]. For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those disclosures set forth in the clause entitled "Treatment of Confidential Business Information."
- (d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of confidential business information to the subcontractor.
- (e) The Contractor shall return all documents, logs, and employee confidentiality agreements to EPA at the end of the contract.
- (f) If, subsequent to the date of this contract, the Government changes the security requirements, the Contracting Officer shall equitably adjust affected provisions of this contract in accordance with the "Changes" clause when:
  - (1) The Contractor submits a timely written request for an equitable adjustment; and
  - (2) The facts warrant an equitable adjustment.

**H.19 TREATMENT OF CONFIDENTIAL BUSINESS INFORMATION (TSCA) (EPAAR 1552.235-76) (APR 1996) DEVIATION**

- (a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose confidential business information (CBI) to the Contractor necessary to carry out the work required under this contract. The Contractor agrees to use the CBI only under the following conditions:
  - (1) The Contractor and Contractor's employees shall (i) use the CBI only for the purposes of carrying out the work required by the contract; (ii) not disclose the information to anyone other than properly cleared EPA employees without the prior written approval of the Assistant General Counsel for Information Law or his/her designee; and (iii) return the CBI to the PO or his/her designee, whenever the information is no longer required by the Contractor for performance of the work required by the contract, or upon completion of this contract.
  - (2) The Contractor shall obtain a written agreement to honor the above limitations from each of the Contractor's employees who will have access to the information before the employee is allowed access.
  - (3) The Contractor agrees that these contract conditions concerning the use and disclosure of CBI are included for the benefit of, and shall be enforceable by, both EPA and any affected businesses having a proprietary interest in the information.

(4) The Contractor shall not use any CBI supplied by EPA or obtained during performance hereunder to compete with any business to which the CBI relates.

- (b) The Contractor agrees to obtain the written consent of the CO, after a written determination by the appropriate program office, prior to entering into any subcontract that will involve the disclosure of CBI by the Contractor to the subcontractor. The Contractor agrees to include this clause, including this paragraph (b), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.

**H.20 DATA SECURITY FOR TOXIC SUBSTANCES CONTROL ACT CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-78) (DEC 1997) DEVIATION**

The Contractor shall handle Toxic Substances Control Act (TSCA) confidential business information (CBI) in accordance with the contract clause entitled "Treatment of Confidential Business Information" and "Screening Business Information for Claims of Confidentiality."

- (a) The Project Officer (PO) or his/her designee, after a written determination by the appropriate program office, may disclose TSCA CBI to the contractor necessary to carry out the work required under this contract. The Contractor shall protect all TSCA CBI to which it has access (including CBI used in its computer operations) in accordance with the following requirements:

(1) The Contractor and Contractor's employees shall follow the security procedures set forth in the TSCA CBI Security Manual. The manual may be obtained from the Director, Information Management Division (IMD), Office of Pollution Prevention and Toxics (OPPT), U.S. Environmental Protection Agency (EPA), Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20460. Prior to receipt of TSCA CBI by the Contractor, the Contractor shall ensure that all employees who will be cleared for access to TSCA CBI have been briefed on the handling, control, and security requirements set forth in the TSCA CBI Security Manual.

(2) The Contractor shall permit access to and inspection of the Contractor's facilities in use under this contract by representatives of EPA's Assistant Administrator for Administration and Resources Management, and the TSCA Security Staff in the OPPT, or by the EPA Project Officer.

(3) The Contractor Document Control Officer (DCO) shall obtain a signed copy of EPA Form 7740-6, "TSCA CBI Access Request, Agreement, and Approval," from each of the Contractor's employees who will have access to the information before the employee is allowed access. In addition, the Contractor shall obtain from each employee who will be cleared for TSCA CBI access all information required by EPA or the U.S. Office of Personnel Management for EPA to conduct a Minimum Background Investigation.

- (b) The Contractor agrees that these requirements concerning protection of TSCA CBI are included for the benefit of, and shall be enforceable by,

both EPA and any affected business having a proprietary interest in the information.

- (c) The Contractor understands that CBI obtained by EPA under TSCA may not be disclosed except as authorized by the Act, and that any unauthorized disclosure by the Contractor or the Contractor's employees may subject the Contractor and the Contractor's employees to the criminal penalties specified in TSCA (15 U.S.C. 2613(d)). For purposes of this contract, the only disclosures that EPA authorizes the Contractor to make are those set forth in the clause entitled "Treatment of Confidential Business Information."
- (d) The Contractor agrees to include the provisions of this clause, including this paragraph (d), in all subcontracts awarded pursuant to this contract that require the furnishing of CBI to the subcontractor.
- (e) At the request of EPA or at the end of the contract, the Contractor shall return to the EPA PO or his/her designee, all documents, logs, and magnetic media which contain TSCA CBI. In addition, each Contractor employee who has received TSCA CBI clearance will sign EPA Form 7740-18, "Confidentiality Agreement for Contractor Employees Upon Relinquishing TSCA CBI Access Authority." The Contractor DCO will also forward those agreements to the EPA OPPT/IMD, with a copy to the CO, at the end of the contract.
- (f) If, subsequent to the date of this contract, the Government changes the security requirements, the CO shall equitably adjust affected provisions of this contract, in accordance with the "Changes" clause, when:
  - (1) The Contractor submits a timely written request for an equitable adjustment; and,
  - (2) The facts warrant an equitable adjustment.

#### **H.21 ACCESS TO CONFIDENTIAL BUSINESS INFORMATION (EPAAR 1552.235-80) (OCT 2000) DEVIATION**

It is anticipated that it will be necessary for the Contractor to have access to confidential business information (CBI) during the performance of tasks required under this contract. The following applies to any and all tasks under which the Contractor will or may have access to CBI:

The Contractor shall not have access to CBI submitted to EPA under any authority until the contractor obtains from the Project Officer a certification that the EPA has followed all necessary procedures under 40 CFR part 2, subpart B (and any other applicable procedures), including providing, where necessary, prior notice to the submitters of disclosure to the Contractor.

#### **H.22 CONTRACT PUBLICATION REVIEW PROCEDURES (EPAAR 1552.237-70) (APR 1984) DEVIATION**

- (a) Material generated under this contract intended for release to the public is subject to the Agency's publication review process in accordance with the EPA Order on this subject and the following.

(b) Except as indicated in paragraph (c) below, the Contractor shall not independently publish or print material generated under this contract until after completion of the EPA review process. The Project Officer will notify the Contractor of review completion within 30 calendar days after the Contractor's transmittal to the Project Officer of material generated under this contract. If the Contractor does not receive Project Officer notification within this period, the Contractor shall immediately notify the Contracting Officer in writing.

(c) The Contractor may publish, in a scientific journal, material resulting directly or indirectly from work performed under this contract, subject to the following:

(1) The Contractor shall submit to the Contracting Officer and the Project Officer, at least 30 days prior to publication, a copy of any paper, article, or other dissemination of information intended for publication.

(2) The Contractor shall include the following statement in a journal article which has not been subjected to EPA review: "Although the research described in this article has been funded wholly or in part by the United States Environmental Protection Agency contract (number) to (Name of Contractor), it has not been subject to the Agency's review and therefore does not necessarily reflect the views of the Agency, and no official endorsement should be inferred."

(3) Following publication of the journal article, the Contractor shall submit five copies of the journal article to the Project Officer, and one copy to the Contracting Officer.

(d) If the Government has completed the review process and agreed that the contract material may be attributed to EPA, the Contractor shall include the following statement in the document:

This material has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name). It has been subject to the Agency's review, and it has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(e) If the Government has completed the review process, but decides not to publish the material, the Contractor may independently publish and distribute the material for its own use and at its own expense, and shall include the following statement in any independent publication:

Although the information described in this article has been funded wholly or in part by the United States Environmental Protection Agency under contract (number) to (name), it does not necessarily reflect the views of the Agency and no official endorsement should be inferred.

## **H.23 TECHNICAL DIRECTION (EPAAR 1552.237-71) (APR 1984) DEVIATION**

(a) The Project Officer is the primary representative of the Contracting Officer authorized to provide technical direction on contract performance.

- (b) Individuals other than the Project Officer may be authorized to provide technical direction. If individuals other than the Project Officer are authorized to provide technical direction, their names will be specified in the contract, delivery order, work assignment or technical direction document as appropriate. A Delivery Order Project Officer, Work Assignment Manager or Task Manager is authorized to provide technical direction, subject to the limitations set forth below, only on his/her delivery order, work assignment or technical direction document.
- (c) Technical direction includes:
  - (1) Direction to the contractor which assists the contractor in accomplishing the Statement of Work.
  - (2) Comments on and approval of reports or other deliverables.
- (d) Technical direction must be within the contract and the delivery order, work assignment or technical direction document statement of work. The Project Officer or any other technical representative of the Contracting Officer does not have the authority to issue technical direction which
  - (1) institutes additional work outside the scope of the contract, delivery order, work assignment or technical direction document; (2) constitutes a change as defined in the "Changes" clause; (3) causes an increase or decrease in the estimated cost of the contract, delivery order, work assignment or technical direction document; (4) alters the period of performance; or (5) changes any of the other express terms or conditions of the contract, delivery order, work assignment or technical direction document.
- (e) Technical direction will be issued in writing or confirmed in writing within five (5) calendar days after verbal issuance. One copy of the technical direction memorandum will be forwarded to the Contracting Officer and the Project Officer.

#### **H.24 KEY PERSONNEL (EPAAR 1552.237-72) (APR 1984)**

- (a) The Contractor shall assign to this contract the following key personnel:

**Names and disciplines of Key Personnel to be inserted at time of contract award.**

NOTE: A Subcontractor employee cannot be a key technical personnel unless the Prime Contractor provides written certification to the Contracting Officer that the Subcontractor employee has been legally designated as AGENT of the prime contractor. Once the Subcontractor employee has been designated as an AGENT of the Prime Contractor, that AGENT can bind the Prime Contractor when he or she implements technical direction provided by the EPA Work Assignment Manager.

- (b) During the first ninety (90) calendar days of performance, the Contractor shall make no substitutions of key personnel unless the substitution is necessitated by illness, death, or termination of employment. The Contractor shall notify the Contracting Officer within 15 calendar days after the occurrence of any of these events and provide

the information required by paragraph (c) below. After the initial ninety (90) calendar day period, the Contractor shall submit the information required by paragraph (c) to the Contracting Officer at least 15 calendar days prior to making any permanent substitutions.

- (c) The Contractor shall provide a detailed explanation of the circumstances necessitating the proposed substitutions, complete resumes for the proposed substitutes, and any additional information requested by the Contracting Officer. Proposed substitutes should have comparable qualifications to those of the persons being replaced. The Contracting Officer will notify the Contractor within 15 calendar days after receipt of all required information of the decision on substitutions. This clause will be modified to reflect any approved changes of key personnel.

#### **H.25 PAPERWORK REDUCTION ACT (EPAAR 1552.237-75) (APR 1984) DEVIATION**

If it is established at award or subsequently becomes a contractual requirement to collect identical information from ten (10) or more public respondents, the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. applies. In that event, the Contractor shall not take any action to solicit information from any of the public respondents until notified in writing by the Contracting Officer that the required Office of Management and Budget (OMB) final clearance was received.

#### **H.26 GOVERNMENT CONTRACTOR RELATIONS (HQ-H-99-02)**

- (a) The Government and the Contractor understand and agree that the services to be delivered under this contract by the Contractor to the Government are non-personal services and the parties recognize and agree that no employer-employee relationship exists or will exist under the contract between the Government and the Contractor's employees. It is therefore in the best interest of the Government to afford both parties a full and complete understanding of their respective obligations.
- (b) Contractor personnel under this contract shall not:
  - (1) Be placed in a position where they are under the supervision, direction, or evaluation of a Government employee.
  - (2) Be placed in a position of command, supervision, administration or control over Government personnel, or personnel of other contractors, or become a part of the Government organization.
  - (3) Be used in administration or supervision of Government procurement activities.
- (c) Employee Relationship:
  - (1) The services to be performed under this contract do not require the Contractor or his employees to exercise personal judgement and discretion on behalf of the Government, but rather, the Contractor's employees will act and exercise personal judgement and discretion on behalf of the Contractor.



(2) Rules, regulations, directives and requirements which are issued by the U.S. Environmental Protection Agency under its responsibility for good order, administration, and security are applicable to all personnel who enter the installation, or who travel on Government transportation. This is not to be construed or interpreted to establish any degree of Government control which is inconsistent with a non-personal services contract.

(d) Inapplicability of Employee Benefits: This contract does not create an employer-employee relationship. Accordingly, entitlements and benefits applicable to such relationships do not apply.

(1) Payments under this contract are not subject to Federal income tax withholding.

(2) Payments under this contract are not subject to Federal Insurance Contributions Act.

(3) The Contractor is not entitled to unemployment compensation benefits under the Social Security Act, as amended, by virtue of performance under this contract.

(4) The contractor is not entitled to any workman's compensation benefits by virtue of this contract.

(5) The entire consideration and benefits to the Contractor for performance of this contract is contained in the provisions for payment under this contract.

#### **H.27 PUBLIC COMMUNICATION OR IDENTIFICATION OF CONTRACTOR EMPLOYEES**

All Contractor, Subcontractor, and Consultant personnel shall wear prominently displayed identification badges at all times when performing tasks under this contract and when interacting with EPA officials; federal agencies; state, tribal and local governments; businesses; industry; and the general public. The badge shall contain the individual's name and the company's name and logo. The office space occupied by Contractor staff in any location that is also occupied by EPA employees shall be identified with appropriate signs that include the Contractor's name. When participating in any event and/or discussion (e.g., answering the telephone, participating as a panel member or speaker), Contractor staff shall verbally identify themselves as Contractor personnel so that there is no possible appearance of being EPA Officials.

#### **H.28 LEGAL SERVICES**

The Contractor shall not provide any legal services without the advance written approval of EPA's Office of General Counsel.

**PART II - CONTRACT CLAUSES****SECTION I - CONTRACT CLAUSES****I.1 NOTICE Listing Contract Clauses Incorporated by Reference****NOTICE:**

The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

**FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)**

NUMBER	DATE	TITLE
52.202-1	DEC 2001	DEFINITIONS DEVIATION
52.203-3	APR 1984	GRATUITIES
52.204-4	AUG 2000	PRINTED OR COPIED DOUBLE-SIDED ON RECYCLED PAPER DEVIATION
52.209-6	JUL 1995	PROTECTING THE GOVERNMENT'S INTEREST WHEN SUBCONTRACTING WITH CONTRACTORS DEBARRED, SUSPENDED, OR PROPOSED FOR DEBARMENT DEVIATION
52.216-7	FEB 2002	ALLOWABLE COST AND PAYMENT DEVIATION
52.216-8	MAR 1997	FIXED FEE DEVIATION
52.217-8	NOV 1999	OPTION TO EXTEND SERVICES DEVIATION
52.219-8	OCT 2000	UTILIZATION OF SMALL BUSINESS CONCERNS DEVIATION
52.219-9	OCT 2001	SMALL BUSINESS SUBCONTRACTING PLAN DEVIATION
52.219-13	AUG 1986	UTILIZATION OF WOMEN-OWNED SMALL BUSINESSES DEVIATION
52.219-16	JAN 1999	LIQUIDATED DAMAGES--SUBCONTRACTING PLAN DEVIATION
52.222-2	JUL 1990	PAYMENT FOR OVERTIME PREMIUMS DEVIATION
52.222-3	AUG 1996	CONVICT LABOR DEVIATION
52.222-26	APR 2002	EQUAL OPPORTUNITY DEVIATION
52.222-35	DEC 2001	EQUAL OPPORTUNITY FOR SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS DEVIATION
52.222-36	JUN 1998	AFFIRMATIVE ACTION FOR WORKERS WITH DISABILITIES DEVIATION
52.222-37	DEC 2001	EMPLOYMENT REPORTS ON SPECIAL DISABLED VETERANS, VETERANS OF THE VIETNAM ERA, AND OTHER ELIGIBLE VETERANS DEVIATION
52.225-13	JUL 2000	RESTRICTIONS ON CERTAIN FOREIGN PURCHASES DEVIATION
52.227-1	JUL 1995	AUTHORIZATION AND CONSENT DEVIATION
52.227-2	AUG 1996	NOTICE AND ASSISTANCE REGARDING PATENT AND COPYRIGHT INFRINGEMENT DEVIATION
52.227-14	JUN 1987	RIGHTS IN DATA--GENERAL DEVIATION

52.227-14	JUN 1987	RIGHTS IN DATA--GENERAL ALTERNATE II (JUN 1987) DEVIATION
52.227-14	JUN 1987	RIGHTS IN DATA--GENERAL ALTERNATE III (JUN 1987) DEVIATION
52.227-16	JUN 1987	ADDITIONAL DATA REQUIREMENTS DEVIATION
52.228-7	MAR 1996	INSURANCE--LIABILITY TO THIRD PERSONS DEVIATION
52.232-17	JUN 1996	INTEREST DEVIATION
52.232-20	APR 1984	LIMITATION OF COST DEVIATION
52.232-22	APR 1984	LIMITATION OF FUNDS DEVIATION
52.232-23	JAN 1986	ASSIGNMENT OF CLAIMS DEVIATION
52.232-25	FEB 2002	PROMPT PAYMENT DEVIATION
52.232-34	MAY 1999	PAYMENT BY ELECTRONIC FUNDS TRANSFER--OTHER THAN CENTRAL CONTRACTOR REGISTRATION DEVIATION
52.233-1	JUL 2002	DISPUTES ALTERNATE I (DEC 1991) DEVIATION
52.233-3	AUG 1996	PROTEST AFTER AWARD ALTERNATE I (JUN 1985) DEVIATION
52.242-1	APR 1984	NOTICE OF INTENT TO DISALLOW COSTS DEVIATION
52.242-4	JAN 1997	CERTIFICATION OF FINAL INDIRECT COSTS DEVIATION
52.242-13	JUL 1995	BANKRUPTCY DEVIATION
52.243-2	AUG 1987	CHANGES--COST REIMBURSEMENT ALTERNATE I (APR 1984) DEVIATION
52.246-25	FEB 1997	LIMITATION OF LIABILITY--SERVICES DEVIATION
52.249-6	SEP 1996	TERMINATION (COST-REIMBURSEMENT) DEVIATION
52.249-14	APR 1984	EXCUSABLE DELAYS
52.253-1	JAN 1991	COMPUTER GENERATED FORMS DEVIATION

**I.2 PRINTING/COPYING DOUBLE-SIDED ON RECYCLED PAPER (FAR 52.204-4) (JUN 1996) DEVIATION**

- (a) In accordance with Executive Order 12873, dated October 20, 1993, as amended by Executive Order 12995, dated March 25, 1996, the Offeror/Contractor is required to submit paper documents, such as offers, letters, or reports, that are printed/copied double-sided on recycled paper that has at least 20% postconsumer material.
- (b) The 20% standard applies to high-speed copier paper, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white woven envelopes, and other uncoated printed and writing paper, such as writing and office paper, book paper, cotton fiber paper, and cover stock. An alternative standard to meeting the 20% postconsumer material standard is 50% recovered material content of certain industrial by-products.

**I.3 NOTICE OF PRICE EVALUATION ADJUSTMENT FOR SMALL DISADVANTAGED BUSINESS CONCERNS (FAR 52.219-23) (OCT 1998) ALTERNATE I (OCT 1998) DEVIATION**

- (a) *Definitions.* As used in this clause--

"Small disadvantaged business concern" means an offeror that represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

(1) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

(i) No material change in disadvantaged ownership and control has occurred since its certification;

(ii) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c)(2); and

(iii) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net).

(2) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted. In this case, in order to receive the benefit of a price evaluation adjustment, an offeror must receive certification as a small disadvantaged business concern by the Small Business Administration prior to contract award; or

(3) Is a joint venture as defined in 13 CFR 124.1002(f).

"Historically black college or university" means an institution determined by the Secretary of Education to meet the requirements of 34 CFR 608.2. For the Department of Defense (DOD), the National Aeronautics and Space Administration (NASA), and the Coast Guard, the term also includes any nonprofit research institution that was an integral part of such a college or university before November 14, 1986.

"Minority institution" means an institution of higher education meeting the requirements of Section 1046(3) of the Higher Education Act of 1965 (20 U.S.C. 1135d-5(3)) which, for purposes of this clause, includes a Hispanic-serving institution of higher education as defined in Section 316(b)(1) of the Act (20 U.S.C. 1059c(b)(1)).

"United States" means the United States, its territories and possessions, the Commonwealth of Puerto Rico, the U.S. Trust Territory of the Pacific Islands, and the District of Columbia.

(b) *Evaluation adjustment.* (1) The Contracting Officer will evaluate offers by adding a factor of \_\_\_\_\_ [*Contracting Officer insert the percentage*] percent to the price of all offers, except--

(i) Offers from small disadvantaged business concerns that have not waived the adjustment;

(ii) An otherwise successful offer of eligible products under the Trade Agreements Act when the dollar threshold for application of the

Act is equaled or exceeded (see section 25.402 of the Federal Acquisition Regulation (FAR));

(iii) An otherwise successful offer where application of the factor would be inconsistent with a Memorandum of Understanding or other international agreement with a foreign government;

(iv) For DoD, NASA, and Coast Guard acquisitions, an otherwise successful offer from a historically black college or university or minority institution; and

(v) For DoD acquisitions, an otherwise successful offer of qualifying country end products (see sections 225.000-70 and 252.225-7001 of the Defense FAR Supplement).

(2) The Contracting Officer will apply the factor to a line item or a group of line items on which award may be made. The Contracting Officer will apply other evaluation factors described in the solicitation before application of the factor. The factor may not be applied if using the adjustment would cause the contract award to be made at a price that exceeds the fair market price by more than the factor in paragraph (b)(1) of this clause.

- (c) *Waiver of evaluation adjustment.* A small disadvantaged business concern may elect to waive the adjustment, in which case the factor will be added to its offer for evaluation purposes. The agreements in paragraph (d) of this clause do not apply to offers that waive the adjustment.

\_\_\_\_ Offeror elects to waive the adjustment.

- (d) *Agreements.* (1) A small disadvantaged business concern, that did not waive the adjustment, agrees that in performance of the contract, in the case of a contract for--

(i) Services, except construction, at least 50 percent of the cost of personnel for contract performance will be spent for employees of the concern;

(ii) Supplies (other than procurement from a non-manufacturer of such supplies), at least 50 percent of the cost of manufacturing, excluding the cost of materials, will be performed by the concern;

(iii) General construction, at least 15 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern; or

(iv) Construction by special trade contractors, at least 25 percent of the cost of the contract, excluding the cost of materials, will be performed by employees of the concern.

(2) A small disadvantaged business concern submitting an offer in its own name agrees to furnish in performing this contract only end items manufactured or produced by small business concerns in the United States. This paragraph does not apply in connection with construction or service contracts.

**I.4 NOTIFICATION OF CHANGES (FAR 52.243-7) (APR 1984) DEVIATION**

- (a) Definitions. "Contracting Officer," as used in this clause, does not include any representative of the Contracting Officer. "Specifically Authorized Representative (SAR)," as used in this clause, means any person the Contracting Officer has so designated by written notice (a copy of which shall be provided to the Contractor) which shall refer to this subparagraph and shall be issued to the designated representative before the SAR exercises such authority.
- (b) Notice. The primary purpose of this clause is to obtain prompt reporting of Government conduct that the Contractor considers to constitute a change to this contract. Except for changes identified as such in writing and signed by the Contracting Officer, the Contractor shall notify the Administrative Contracting Officer in writing promptly, within 15 calendar days from the date that the Contractor identifies any Government conduct (including actions, inactions, and written or oral communications) that the Contractor regards as a change to the contract terms and conditions. On the basis of the most accurate information available to the Contractor, the notice shall state--
  - (1) The date, nature, and circumstances of the conduct regarded as a change;
  - (2) The name, function, and activity of each Government individual and Contractor official or employee involved in or knowledgeable about such conduct;
  - (3) The identification of any documents and the substance of any oral communication involved in such conduct;
  - (4) In the instance of alleged acceleration of scheduled performance or delivery, the basis upon which it arose;
  - (5) The particular elements of contract performance for which the Contractor may seek an equitable adjustment under this clause, including--
    - (i) What contract line items have been or may be affected by the alleged change;
    - (ii) What labor or materials or both have been or may be added, deleted, or wasted by the alleged change;
    - (iii) To the extent practicable, what delay and disruption in the manner and sequence of performance and effect on continued performance have been or may be caused by the alleged change;
    - (iv) What adjustments to contract price, delivery schedule, and other provisions affected by the alleged change are estimated; and
  - (6) The Contractor's estimate of the time by which the Government must respond to the Contractor's notice to minimize cost, delay or disruption of performance.

- (c) Continued performance. Following submission of the notice required by (b) above, the Contractor shall diligently continue performance of this contract to the maximum extent possible in accordance with its terms and conditions as construed by the Contractor, unless the notice reports a direction of the Contracting Officer or a communication from a SAR of the Contracting Officer, in either of which events the Contractor shall continue performance; provided, however, that if the Contractor regards the direction or communication as a change as described in (b) above, notice shall be given in the manner provided. All directions, communications, interpretations, orders and similar actions of the SAR shall be reduced to writing promptly and copies furnished to the Contractor and to the Contracting Officer. The Contracting Officer shall promptly countermand any action which exceeds the authority of the SAR.
- (d) Government response. The Contracting Officer shall promptly, within 15 calendar days after receipt of notice, respond to the notice in writing. In responding, the Contracting Officer shall either--
- (1) Confirm that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance;
  - (2) Countermand any communication regarded as a change;
  - (3) Deny that the conduct of which the Contractor gave notice constitutes a change and when necessary direct the mode of further performance; or
  - (4) In the event the Contractor's notice information is inadequate to make a decision under (1), (2), or (3) above, advise the Contractor what additional information is required, and establish the date by which it should be furnished and the date thereafter by which the Government will respond.
- (e) Equitable adjustments. (1) If the Contracting Officer confirms that Government conduct effected a change as alleged by the Contractor, and the conduct causes an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the work under this contract, whether changed or not changed by such conduct, an equitable adjustment shall be made--
- (i) In the contract price or delivery schedule or both; and
  - (ii) In such other provisions of the contract as may be affected.
- (2) The contract shall be modified in writing accordingly. In the case of drawings, designs or specifications which are defective and for which the Government is responsible, the equitable adjustment shall include the cost and time extension for delay reasonably incurred by the Contractor in attempting to comply with the defective drawings, designs or specifications before the Contractor identified, or reasonably should have identified, such defect. When the cost of property made obsolete or excess as a result of a change confirmed by the Contracting Officer under this clause is included in the equitable adjustment, the Contracting Officer shall have the right to prescribe the manner of

disposition of the property. The equitable adjustment shall not include increased costs or time extensions for delay resulting from the Contractor's failure to provide notice or to continue performance as provided, respectively, in (b) and (c) above.

**I.5 SUBCONTRACTS (FAR 52.244-2) (AUG 1998) ALTERNATE II (AUG 1998) DEVIATION**

(a) *Definitions.* As used in this clause--

"Approved purchasing system" means a Contractor's purchasing system that has been reviewed and approved in accordance with Part 44 of the Federal Acquisition Regulation (FAR).

"Consent to subcontract" means the Contracting Officer's written consent for the Contractor to enter into a particular subcontract.

"Subcontract" means any contract, as defined in FAR Subpart 2.1, entered into by a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(b) This clause does not apply to subcontracts for special test equipment when the contract contains the clause at FAR 52.245-18, Special Test Equipment.

(c) When this clause is included in a fixed-price type contract, consent to subcontract is required only on unpriced contract actions (including unpriced modifications or unpriced delivery orders), and only if required in accordance with paragraph (d) or (e) of this clause.

(d) If the Contractor does not have an approved purchasing system, consent to subcontract is required for any subcontract that--

(1) Is of the cost-reimbursement, time-and-materials, or labor-hour type; or

(2) Is fixed-price and exceeds--

(i) For a contract awarded by the Department of Defense, the Coast Guard, or the National Aeronautics and Space Administration, the greater of the simplified acquisition threshold or 5 percent of the total estimated cost of the contract; or

(ii) For a contract awarded by a civilian agency other than the Coast Guard and the National Aeronautics and Space Administration, either the simplified acquisition threshold or 5 percent of the total estimated cost of the contract.

(e) If the Contractor has an approved purchasing system, the Contractor nevertheless shall obtain the Contracting Officer's written consent before placing the following subcontracts:

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(f) (1) The Contractor shall notify the Contracting Officer reasonably in advance of placing any subcontract or modification thereof for which consent is required under paragraph (c), (d), or (e) of this clause, including the following information:

(i) A description of the supplies or services to be subcontracted.

(ii) Identification of the type of subcontract to be used.

(iii) Identification of the proposed subcontractor.

(iv) The proposed subcontract price.

(v) The subcontractor's current, complete, and accurate cost or pricing data and Certificate of Current Cost or Pricing Data, if required by other contract provisions.

(vi) The subcontractor's Disclosure Statement or Certificate relating to Cost Accounting Standards when such data are required by other provisions of this contract.

(vii) A negotiation memorandum reflecting--

(A) The principal elements of the subcontract price negotiations;

(B) The most significant considerations controlling establishment of initial or revised prices;

(C) The reason cost or pricing data were or were not required; (D) The extent, if any, to which the Contractor did not rely on the subcontractor's cost or pricing data in determining the price objective and in negotiating the final price;

(E) The extent to which it was recognized in the negotiation that the subcontractor's cost or pricing data were not accurate, complete, or current; the action taken by the Contractor and the subcontractor; and the effect of any such defective data on the total price negotiated;

(F) The reasons for any significant difference between the Contractor's price objective and the price negotiated; and

(G) A complete explanation of the incentive fee or profit plan when incentives are used. The explanation shall identify each critical performance element, management decisions used to quantify each incentive element, reasons for the incentives, and a summary of all trade-off possibilities considered.

(2) If the Contractor has an approved purchasing system and consent is not required under paragraph (c), (d), or (e) of this clause, the Contractor nevertheless shall notify the Contracting Officer reasonably in advance of entering into any (i) cost-plus-fixed-fee subcontract, or (ii) fixed-price subcontract that exceeds either the simplified acquisition threshold or 5 percent of the total estimated cost of this contract. The notification shall include the information required by paragraphs (f) (1) (i) through (f) (1) (iv) of this clause.

- (g) Unless the consent or approval specifically provides otherwise, neither consent by the Contracting Officer to any subcontract nor approval of the Contractor's purchasing system shall constitute a determination--
  - (1) Of the acceptability of any subcontract terms or conditions;
  - (2) Of the allowability of any cost under this contract; or
  - (3) To relieve the Contractor of any responsibility for performing this contract.
- (h) No subcontract or modification thereof placed under this contract shall provide for payment on a cost-plus-a-percentage-of-cost basis, and any fee payable under cost-reimbursement type subcontracts shall not exceed the fee limitations in FAR 15.404-4(c) (4) (i).
- (i) The Contractor shall give the Contracting Officer immediate written notice of any action or suit filed and prompt notice of any claim made against the Contractor by any subcontractor or vendor that, in the opinion of the Contractor, may result in litigation related in any way to this contract, with respect to which the Contractor may be entitled to reimbursement from the Government.
- (j) The Government reserves the right to review the Contractor's purchasing system as set forth in FAR Subpart 44.3.
- (k) Paragraphs (d) and (f) of this clause do not apply to the following subcontracts, which were evaluated during negotiations:

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#### **I.6 COMPETITION IN SUBCONTRACTING (FAR 52.244-5) (DEC 1996) DEVIATION**

- (a) The Contractor shall select subcontractors (including suppliers) on a competitive basis to the maximum practical extent consistent with the objectives and requirements of the contract.
- (b) If the Contractor is an approved mentor under the Department of Defense Pilot Mentor-Protege Program (Pub. L. 101-510, section 831 as amended), the Contractor may award subcontracts under this contract on a noncompetitive basis to its proteges.

#### **I.7 SUBCONTRACTS FOR COMMERCIAL ITEMS (FAR 52.244-6) (MAY 2002) DEVIATION**

- (a) *Definitions.* As used in this clause--

"Commercial item" has the meaning contained in the clause at 52.202-1, Definitions.

"Subcontract" includes a transfer of commercial items between divisions, subsidiaries, or affiliates of the Contractor or subcontractor at any tier.

(b) To the maximum extent practicable, the Contractor shall incorporate, and require its subcontractors at all tiers to incorporate, commercial items or nondevelopmental items as components of items to be supplied under this contract.

(c) (1) The Contractor shall insert the following clauses in subcontracts for commercial items:

(i) 52.21908, Utilization of Small Business Concerns (Oct 2000) (15 U.S.C. 637(d)(2)(3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceed \$500,000 (\$1,000,000 for construction of any public facility), the subcontractor must include 52.219-8 in lower tier subcontracts that offer subcontracting opportunities.

(ii) 52.222-26, Equal Opportunity (Apr 2002) (E.O. 11246).

(iii) 52.222-35, Equal Opportunity for Special Disabled Veterans, Veterans of the Vietnam Era, and Other Eligible Veterans (Dec 2001) (38 U.S.C. 4212(a));

(iv) 52.222-36, Affirmative Action for Workers with Disabilities (Jun 1998) (29 U.S.C. 793).

(v) 52.247-64, Preference for Privately Owned U.S.-Flag Commercial Vessels (Jun 2000) (46 U.S.C. Appx 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

(2) While not required, the Contractor may flow down to subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(d) The Contractor shall include the terms of this clause, including this paragraph (d), in subcontracts awarded under this contract.

**I.8 GOVERNMENT PROPERTY (COST-REIMBURSEMENT, TIME-AND-MATERIAL, OR LABOR-HOUR CONTRACTS) (FAR 52.245-5) (AUG 1996) DEVIATION**

(a) *Government-furnished property.* (1) The term "Contractor's managerial personnel," as used in paragraph (g) of this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of--

(i) All or substantially all of the Contractor's business;

(ii) All or substantially all of the Contractor's operation at any one plant, or separate location at which the contract is being performed; or

(iii) A separate and complete major industrial operation connected with performing this contract.

(2) The Government shall deliver to the Contractor, for use in connection with and under the terms of this contract, the Government-furnished property described in the Schedule or specifications, together with such related data and information as the Contractor may request and as may be

reasonably required for the intended use of the property (hereinafter referred to as "Government-furnished property").

- (3) The delivery or performance dates for this contract are based upon the expectation that Government-furnished property suitable for use will be delivered to the Contractor at the times stated in the Schedule or, if not so stated, in sufficient time to enable the Contractor to meet the contract's delivery or performance dates.
- (4) If Government-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt, notify the Contracting Officer, detailing the facts, and, as directed by the Contracting Officer and at Government expense, either effect repairs or modification or return or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, the Contracting Officer shall make an equitable adjustment as provided in paragraph (h) of this clause.
- (5) If Government-furnished property is not delivered to the Contractor by the required time or times, the Contracting Officer shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.
- (b) *Changes in Government-furnished property.* (1) The Contracting Officer may, by written notice, (i) decrease the Government-furnished property provided or to be provided under this contract or (ii) substitute other Government-furnished property for the property to be provided by the Government or to be acquired by the Contractor for the Government under this contract. The Contractor shall promptly take such action as the Contracting Officer may direct regarding the removal, shipment, or disposal of the property covered by this notice.
  - (2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if the Government has agreed in the Schedule to make such property available for performing this contract and there is any--
    - (i) Decrease or substitution in this property pursuant to subparagraph (b) (1) above; or
    - (ii) Withdrawal of authority to use property, if provided under any other contract or lease.
- (c) *Title.* (1) The Government shall retain title to all Government-furnished property.
  - (2) Title to all property purchased by the Contractor for which the Contractor is entitled to be reimbursed as a direct item of cost under this contract shall pass to and vest in the Government upon the vendor's delivery of such property.
  - (3) Title to all other property, the cost of which is reimbursable to the Contractor, shall pass to and vest in the Government upon--

- (i) Issuance of the property for use in contract performance;
  - (ii) Commencement of processing of the property for use in contract performance; or
  - (iii) Reimbursement of the cost of the property by the Government, whichever occurs first.
- (4) All Government-furnished property and all property acquired by the Contractor, title to which vests in the Government under this paragraph (collectively referred to as "Government property"), are subject to the provisions of this clause. Title to Government property shall not be affected by its incorporation into or attachment to any property not owned by the Government, nor shall Government property become a fixture or lose its identity as personal property by being attached to any real property.
- (d) *Use of Government property.* The Government property shall be used only for performing this contract, unless otherwise provided in this contract or approved by the Contracting Officer.
- (e) *Property administration.* (1) The Contractor shall be responsible and accountable for all Government property provided under this contract and shall comply with Federal Acquisition Regulation Subpart 45.5, as in effect on the date of this contract, and which is hereby incorporated into this contract by reference.
- (2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of Government property in accordance with sound business practice and the applicable provisions of FAR Subpart 45.5.
- (3) If damage occurs to Government property, the risk of which has been assumed by the Government under this contract, the Government shall replace the items or the Contractor shall make such repairs as the Government directs. However, if the Contractor cannot effect such repairs within the time required, the Contractor shall dispose of the property as directed by the Contracting Officer. When any property for which the Government is responsible is replaced or repaired, the Contracting Officer shall make an equitable adjustment in accordance with paragraph (h) of this clause.
- (f) *Access.* The Government and all its designees shall have access at all reasonable times to the premises in which any Government property is located for the purpose of inspecting the Government property.
- (g) *Limited Risk of loss.*
- (1) The Contractor shall not be liable for loss or destruction of, or damage to, the Government property provided under this contract or for expenses incidental to such loss, destruction, or damage, except as provided in subparagraphs (2) and (3) below.

(2) The Contractor shall be responsible for loss or destruction of, or damage to, the Government property provided under this contract (including expenses incidental to such loss, destruction, or damage)--

(i) That results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained or to the extent of insurance actually purchased and maintained, whichever is greater;

(ii) That results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(iii) For which the Contractor is otherwise responsible under the express terms of this contract;

(iv) That results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(v) That results from a failure on the part of the Contractor, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel, to establish and administer a program or system for the control, use, protection, preservation, maintenance, and repair of Government property as required by paragraph (e) of this clause.

(3) (i) If the Contractor fails to act as provided by subdivision (g)(2)(v) above, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of the Government's disapproval, withdrawal of approval, or nonacceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

(ii) In such event, any loss or destruction of, or damage to, the Government property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage--

(A) Did not result from the Contractor's failure to maintain an approved program or system; or

(B) Occurred while an approved program or system was maintained by the Contractor.

(4) If the Contractor transfers Government property to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the property as set forth above. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the property while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of the Contracting Officer, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all Government property in as good condition as when received, except

for reasonable wear and tear or for its use in accordance with the provisions of the prime contract.

- (5) The contractor shall notify the contracting officer upon loss or destruction of, or damage to, Government property provided under this contract, with the exception of low value property for which loss, damage, or destruction is reported at contract termination, completion, or when needed for continued contract performance. The Contractor shall take all reasonable action to protect the Government property from further damage, separate the damaged and undamaged Government property, put all the affected Government property in the best possible order, and furnish to the Contracting Officer a statement of--
- (i) The lost, destroyed, or damaged Government property;
  - (ii) The time and origin of the loss, destruction, or damage;
  - (iii) All known interests in commingled property of which the Government property is a part; and
  - (iv) The insurance, if any, covering any part of or interest in such commingled property.
- (6) The Contractor shall repair, renovate, and take such other action with respect to damaged Government property as the Contracting Officer directs. If the Government property is destroyed or damaged beyond practical repair, or is damaged and so commingled or combined with property of others (including the Contractor's) that separation is impractical, the Contractor may, with the approval of and subject to any conditions imposed by the Contracting Officer, sell such property for the account of the Government. Such sales may be made in order to minimize the loss to the Government, to permit the resumption of business, or to accomplish a similar purpose. The Contractor shall be entitled to an equitable adjustment in the contract price for the expenditures made in performing the obligations under this subparagraph (g) (6) in accordance with paragraph (h) of this clause. However, the Government may directly reimburse the loss and salvage organization for any of their charges. The Contracting Officer shall give due regard to the Contractor's liability under this paragraph (g) when making any such equitable adjustment.
- (7) The Contractor shall not be reimbursed for, and shall not include as an item of overhead, the cost of insurance or of any reserve covering risk of loss or destruction of, or damage to, Government property, except to the extent that the Government may have expressly required the Contractor to carry such insurance under another provision of this contract.
- (8) In the event the Contractor is reimbursed or otherwise compensated for any loss or destruction of, or damage to, Government property, the Contractor shall use the proceeds to repair, renovate, or replace the lost, destroyed, or damaged Government property or shall otherwise credit the proceeds to, or equitably reimburse, the Government, as directed by the Contracting Officer.

- (9) The Contractor shall do nothing to prejudice the Government's rights to recover against third parties for any loss or destruction of, or damage to, Government property. Upon the request of the Contracting Officer, the Contractor shall, at the Government's expense, furnish to the Government all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of the Government) in obtaining recovery. In addition, where a subcontractor has not been relieved from liability for any loss or destruction of, or damage to, Government property, the Contractor shall enforce for the benefit of the Government the liability of the subcontractor for such loss, destruction, or damage.
- (h) *Equitable adjustment.* When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, the Contracting Officer may initiate an equitable adjustment in favor of the Government. The right to an equitable adjustment shall be the Contractor's exclusive remedy. The Government shall not be liable to suit for breach of contract for--
- (1) Any delay in delivery of Government-furnished property;
  - (2) Delivery of Government-furnished property in a condition not suitable for its intended use;
  - (3) A decrease in or substitution of Government-furnished property; or
  - (4) Failure to repair or replace Government property for which the Government is responsible.
- (i) *Final accounting and disposition of Government property.* Upon completing this contract, or at such earlier dates as may be fixed by the Contracting Officer, the Contractor shall submit, in a form acceptable to the Contracting Officer, inventory schedules covering all items of Government property not consumed in performing this contract or delivered to the Government. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of the Government property as may be directed or authorized by the Contracting Officer. The net proceeds of any such disposal shall be credited to the cost of the work covered by this contract or paid to the Government as directed by the Contracting Officer. The foregoing provisions shall apply to scrap from Government property; provided, however, that the Contracting Officer may authorize or direct the Contractor to omit from such inventory schedules any scrap consisting of faulty castings or forgings or of cutting and processing waste, such as chips, cuttings, borings, turnings, short ends, circles, trimmings, clippings, and remnants, and to dispose of such scrap in accordance with the Contractor's normal practice and account for it as a part of general overhead or other reimbursable costs in accordance with the Contractor's established accounting procedures.
- (j) *Abandonment and restoration of Contractor premises.* Unless otherwise provided herein, the Government--



- (1) May abandon any Government property in place, at which time all obligations of the Government regarding such abandoned property shall cease; and
- (2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or contract completion). However, if the Government-furnished property (listed in the Schedule or specifications) is withdrawn or is unsuitable for the intended use, or if other Government property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.
- (k) *Communications.* All communications under this clause shall be in writing.
- (l) *Overseas contracts.* If this contract is to be performed outside the United States of America, its territories, or possessions, the words "Government" and "Government-furnished" (wherever they appear in this clause) shall be construed as "United States Government" and "United States Government-furnished," respectively.

**I.9 SUBMISSION OF COMMERCIAL TRANSPORTATION BILLS TO THE GENERAL SERVICES ADMINISTRATION FOR AUDIT (FAR 52.247-67) (JUN 1997) DEVIATION**

- (a)1) In accordance with paragraph (a) (2) of this clause, the Contractor shall submit to the General Services Administration (GSA) for audit, legible copies of all paid freight bills/invoices, commercial bills of lading (CBL's), passenger coupons, and other supporting documents for transportation services on which the United States will assume freight charges that were paid (i) by the Contractor under a cost-reimbursement contract, and (ii) by a first-tier subcontractor under a cost-reimbursement subcontract thereunder.
- (2) Cost-reimbursement Contractors shall only submit for audit those CBL's with freight shipment charges exceeding \$50.00. Bills under \$50.00 shall be retained on-site by the Contractor and made available for GSA on-site audits. This exception only applies to freight shipment bills and is not intended to apply to bills and invoices for any other transportation services.
- (b) The Contractor shall forward copies of paid freight bills/invoices, CBL's, passenger coupons, and supporting documents as soon as possible following the end of the month, in one package to the General Services Administration, ATTN: FWA, 1800 F Street, NW, Washington, DC 20405. The Contractor shall include the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for first tier subcontractors under a cost-reimbursement contract. If the inclusion of the paid freight bills/invoices, CBL's, passenger coupons, and supporting documents for any subcontractor in the shipment is not practicable, the documents may be forwarded to GSA in a separate package.
- (c) Any original transportation bills or other documents requested by GSA shall be forwarded promptly by the Contractor to GSA. The Contractor

shall ensure that the name of the contracting agency is stamped or written on the face of the bill before sending it to GSA.

- (d) A statement prepared in duplicate by the Contractor shall accompany each shipment of transportation documents. GSA will acknowledge receipt of the shipment by signing and returning the copy of the statement. The statement shall show --
  - (1) The name and address of the Contractor;
  - (2) The contract number including any alpha-numeric prefix identifying the contracting office;
  - (3) The name and address of the contracting office;
  - (4) The total number of bills submitted with the statement; and
  - (5) A listing of the respective amounts paid or, in lieu of such listing, an adding machine tape of the amounts paid showing the Contractor's voucher or check numbers.

**I.10 CLAUSES INCORPORATED BY REFERENCE (FAR 52.252-2) (FEB 1998) DEVIATION**

This contract incorporates one or more clauses by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. Also, the full text of a clause may be accessed electronically at this/these address(es):

<http://www.arnet.gov/far/>

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**I.11 AUTHORIZED DEVIATIONS IN CLAUSES (FAR 52.252-6) (APR 1984) DEVIATION**

- (a) The use in this solicitation or contract of any Federal Acquisition Regulation (48 CFR Chapter 1) clause with an authorized deviation is indicated by the addition of "DEVIATION" after the date of the clause.
- (b) The use in this solicitation or contract of any Environmental Protection Agency (48 CFR Chapter 15) clause with an authorized deviation is indicated by the addition of "DEVIATION" after the name of the regulation.

**PART III - LIST OF DOCUMENTS, EXHIBITS, AND OTHER ATTACHMENTS**

**SECTION J - LIST OF ATTACHMENTS**

**J.1 LIST OF ATTACHMENTS (EP 52.252-100) (APR 1984)**

<u>Number</u>	<u>Attachment Title</u>
1	Task matrix
2	Past Performance Questionnaire
3	Invoice Preparation Instructions

**PART IV - REPRESENTATIONS AND INSTRUCTIONS****SECTION K - REPRESENTATIONS, CERTIFICATIONS, AND OTHER STATEMENTS OF OFFERORS****K.1 TAXPAYER IDENTIFICATION (FAR 52.204-3) (OCT 1998) DEVIATION***(a) Definitions.*

"Common parent," as used in this provision, means that corporate entity that owns or controls an affiliated group of corporations that files its Federal income tax returns on a consolidated basis, and of which the offeror is a member.

"Taxpayer Identification Number (TIN)," as used in this provision, means the number required by the Internal Revenue Service (IRS) to be used by the offeror in reporting income tax and other returns. The TIN may be either a Social Security Number or an Employer Identification Number.

- (b) All offerors must submit the information required in paragraphs (d) through (f) of this provision to comply with debt collection requirements of 31 U.S.C. 7701(c) and 3325(d), reporting requirements of 26 U.S.C. 6041, 6041A, and 6050M, and implementing regulations issued by the IRS. If the resulting contract is subject to the payment reporting requirements described in Federal Acquisition Regulation (FAR) 4.904, the failure or refusal by the offeror to furnish the information may result in a 31 percent reduction of payments otherwise due under the contract.
- (c) The TIN may be used by the Government to collect and report on any delinquent amounts arising out of the offeror's relationship with the Government (31 U.S.C. 7701(c)(3)). If the resulting contract is subject to the payment reporting requirements described in FAR 4.904, the TIN provided hereunder may be matched with IRS records to verify the accuracy of the offeror's TIN.

*(d) Taxpayer Identification Number (TIN).*

[ ] TIN: \_\_\_\_\_

[ ] TIN has been applied for.

[ ] TIN is not required because:

[ ] Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the United States and does not have an office or place of business or a fiscal paying agent in the United States;

[ ] Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of the Federal Government.

(e) *Type of organization.*

☐ Sole proprietorship;

☐ Partnership;

☐ Corporate entity (not tax-exempt);

☐ Corporate entity (tax-exempt);

☐ Government entity (Federal, State, or local);

☐ Foreign government;

☐ International organization per 26 CFR 1.6049-4;

☐ Other\_\_\_\_\_.

(f) *Common parent.*

☐ Offeror is not owned or controlled by a common parent as defined in paragraph (a) of this provision.

☐ Name and TIN of common parent:

Name\_\_\_\_\_

TIN\_\_\_\_\_

**K.2 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, PROPOSED DEBARMENT, AND OTHER RESPONSIBILITY MATTERS (FAR 52.209-5) (DEC 2001) DEVIATION**

(a) (1) The Offeror certifies, to the best of its knowledge and belief, that -

(i) The Offeror and/or any of its Principals -

(A) Are ☐ are not ☐ presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency;

(B) Have ☐ have not ☐, within a 3-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

(C) Are ☐ are not ☐ presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission

of any of the offenses enumerated in subdivision (a)(1)(i)(B) of this provision.

(ii) The Offeror has [ ] has not [ ], within a 3-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

(2) "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER SECTION 1001, TITLE 18, UNITED STATES CODE.

- (b) The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (c) A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsive.
- (d) Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (e) The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

**K.3 SMALL BUSINESS PROGRAM REPRESENTATIONS (FAR 52.219-1) (APR 2002)  
ALTERNATE I (APR 2002) DEVIATION**

- (a)(1) The North American Industry Classification System (NAICS) code for this acquisition is **541620, Environmental Consulting Services.**
- (2) The small business size standard is **\$5 Million.**
- (3) The small business size standard for a concern which submits an offer in its own name, other than on a construction or service contract,

but which proposes to furnish a product which it did not itself manufacture, is 500 employees.

(b) *Representations.*

(1) The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents, for general statistical purposes, that it ☐ is, ☐ is not, a small disadvantaged business concern as defined in 13 CFR 124.1002.

(3) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a women-owned small business concern.

(4) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a veteran-owned small business concern.

(5) *[Complete only if the offeror represented itself as a veteran-owned small business concern in paragraph (b)(4) of this provision.]* The offeror represents as part of its offer that it ☐ is, ☐ is not a service-disabled veteran-owned small business concern.

(6) *[Complete only if the offeror represented itself as a small business concern in paragraph (b)(1) of this provision.]* The offeror represents, as part of its offer, that--

(i) It ☐ is, ☐ is not a HUBZone small business concern listed, on the date of this representation, on the List of Qualified HUBZone Small Business Concerns maintained by the Small Business Administration, and no material change in ownership and control, principal office, or HUBZone employee percentage has occurred since it was certified by the Small Business Administration in accordance with 13 CFR part 126; and

(ii) It ☐ is, ☐ is not a joint venture that complies with the requirements of 13 CFR part 126, and the representation in paragraph (b)(6)(i) of this provision is accurate for the HUBZone small business concern or concerns that are participating in the joint venture. *[The offeror shall enter the name or names of the HUBZone small business concern or concerns that are participating in the joint venture:\_\_\_\_\_.]* Each HUBZone small business concern participating in the joint venture shall submit a separate signed copy of the HUBZone representation.

(7) *[Complete if offeror represented itself as disadvantaged in paragraph (b)(2) of this provision.]* The offeror shall check the category in which its ownership falls:

\_\_\_\_ Black American.

\_\_\_\_\_ Hispanic American.

\_\_\_\_\_ Native American (American Indians, Eskimos, Aleuts, or Native Hawaiians).

\_\_\_\_\_ Asian-Pacific American (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru).

\_\_\_\_\_ Subcontinent Asian (Asian-Indian) American (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands, or Nepal).

\_\_\_\_\_ Individual/concern, other than one of the preceding.

(c) *Definitions.* As used in this provision--

"Service-disabled veteran-owned small business concern"--

(1) Means a small business concern--

(i) Not less than 51 percent of which is owned by one or more service-disabled veterans or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more service-disabled veterans; and

(ii) The management and daily business operations of which are controlled by one or more service-disabled veterans or, in the case of a veteran with permanent and severe disability, the spouse or permanent caregiver of such veteran.

(2) Service-disabled veteran means a veteran, as defined in 38 U.S.C. 101(2), with a disability that is service-connected, as defined in 38 U.S.C. 101(16).

"Small business concern," means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and the size standard in paragraph (a) of this provision.

"Veteran-owned small business concern" means a small business concern--

(1) Not less than 51 percent of which is owned by one or more veterans (as defined at 38 U.S.C. 101(2)) or, in the case of any publicly owned business, not less than 51 percent of the stock of which is owned by one or more veterans; and

(2) The management and daily business operations of which are controlled by one or more veterans.



"Women-owned small business concern," means a small business concern --

- (1) That is at least 51 percent owned by one or more women; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

(d) *Notice.*

- (1) If this solicitation is for supplies and has been set aside, in whole or in part, for small business concerns, then the clause in this solicitation providing notice of the set-aside contains restrictions on the source of the end items to be furnished.
- (2) Under 15 U.S.C. 645(d), any person who misrepresents a firm's status as a small, HUBZone small, small disadvantaged, or women-owned small business concern in order to obtain a contract to be awarded under the preference programs established pursuant to section 8(a), 8(d), 9, or 15 of the Small Business Act or any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall --

- (i) Be punished by imposition of fine, imprisonment, or both;

- (ii) Be subject to administrative remedies, including suspension and debarment; and

- (iii) Be ineligible for participation in programs conducted under the authority of the Act.

**K.4 SMALL DISADVANTAGED BUSINESS STATUS (FAR 52.219-22) (OCT 1999) DEVIATION**

- (a) *General.* This provision is used to assess an offeror's small disadvantaged business status for the purpose of obtaining a benefit on this solicitation. Status as a small business and status as a small disadvantaged business for general statistical purposes is covered by the provision at FAR 52.219-1, Small Business Program Representation.
- (b) *Representations.* (1) *General.* The offeror represents, as part of its offer, that it is a small business under the size standard applicable to this acquisition; and either--

- [ ] (i) It has received certification by the Small Business Administration as a small disadvantaged business concern consistent with 13 CFR 124, Subpart B; and

- (A) No material change in disadvantaged ownership and control has occurred since its certification;

- (B) Where the concern is owned by one or more disadvantaged individuals, the net worth of each individual upon whom the certification is based does not exceed \$750,000 after taking into account the applicable exclusions set forth at 13 CFR 124.104(c) (2); and

(C) It is identified, on the date of its representation, as a certified small disadvantaged business concern in the database maintained by the Small Business Administration (PRO-Net); or

[ ] (ii) It has submitted a completed application to the Small Business Administration or a Private Certifier to be certified as a small disadvantaged business concern in accordance with 13 CFR 124, Subpart B, and a decision on that application is pending, and that no material change in disadvantaged ownership and control has occurred since its application was submitted.

(2) [ ] *For Joint Ventures.* The offeror represents, as part of its offer, that it is a joint venture that complies with the requirements at 13 CFR 124.1002(f) and that the representation in paragraph (b)(1) of this provision is accurate for the small disadvantaged business concern that is participating in the joint venture. *[The offeror shall enter the name of the small disadvantaged business concern that is participating in the joint venture: \_\_\_\_\_.]*

(c) *Penalties and Remedies.* Anyone who misrepresents any aspects of the disadvantaged status of a concern for the purposes of securing a contract or subcontract shall:

(1) Be punished by imposition of a fine, imprisonment, or both;

(2) Be subject to administrative remedies, including suspension and debarment; and

(3) Be ineligible for participation in programs conducted under the authority of the Small Business Act.

**K.5 PROHIBITION OF SEGREGATED FACILITIES (FAR 52.222-21) (FEB 1999)  
DEVIATION**

(a) "Segregated facilities," as used in this clause, means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees, that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, or national origin because of written or oral policies or employee custom. The term does not include separate or single-user rest rooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(b) The Contractor agrees that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Contractor agrees that a breach of this clause is a violation of the Equal Opportunity clause in this contract.

- (c) The Contractor shall include this clause in every subcontract and purchase order that is subject to the Equal Opportunity clause of this contract.

**K.6 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS (FAR 52.222-22) (FEB 1999) DEVIATION**

The offeror represents that--

- (a) It [ ] has, [ ] has not participated in a previous contract or subcontract subject to the Equal Opportunity clause of this solicitation;
- (b) It [ ] has, [ ] has not filed all required compliance reports; and
- (c) Representations indicating submission of required compliance reports, signed by proposed subcontractors, will be obtained before subcontract awards.

**K.7 AFFIRMATIVE ACTION COMPLIANCE (FAR 52.222-25) (APR 1984) DEVIATION**

The offeror represents that--

- (a) It [ ] has developed and has on file, [ ] has not developed and does not have on file, at each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or (b) It [ ] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

**K.8 RECOVERED MATERIAL CERTIFICATION (FAR 52.223-4) (OCT 1997) DEVIATION**

As required by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6962(c)(3)(A)(i)), the offeror certifies, by signing this offer, that the percentage of recovered material to be used in the performance of the contract will be at least the amount required by the applicable contract specifications.

**K.9 ORGANIZATIONAL CONFLICT OF INTEREST CERTIFICATION (EPAAR 1552.209-72) (APR 1984) DEVIATION**

The offeror [ ] is [ ] is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the offeror is aware of information bearing on whether a potential conflict may exist, the offeror shall provide a disclosure statement describing this information. (See Section L of the solicitation for further information.)

**K.10 SOCIAL SECURITY NUMBERS OF CONSULTANTS AND CERTAIN SOLE PROPRIETORS AND PRIVACY ACT STATEMENT (EPAAR 1552.224-70) (APR 1984) DEVIATION**

- (a) Section 6041 of Title 26 of the U.S. Code requires EPA to file Internal Revenue Service (IRS) Form 1099 with respect to individuals who receive payments from EPA under purchase orders or contracts. Section 6109 of

Title 26 of the U.S. Code authorizes collection by EPA of the social security numbers of such individuals for the purpose of filing IRS Form 1099. Social security numbers obtained for this purpose will be used by EPA for the sole purpose of filing IRS Form 1099 in compliance with Section 6041 of Title 26 of the U.S. Code.

- (b) If the offeror or quoter is an individual, consultant, or sole proprietor and has no Employer Identification Number, insert the offeror's or quoter's social security number on the following line.

.....

**K.11 CONTROL AND SECURITY OF FIFRA CONFIDENTIAL BUSINESS INFORMATION (EP 52.235-135) (AUG 1993)**

The offeror certifies that the Contractor and its employees have read and are familiar with the requirements for the control and security of FIFRA CBI contained in the manual entitled "FIFRA Information Security Manual". (See also EP52.235-140 elsewhere in this solicitation.)

**K.12 SIGNATURE BLOCK (EP 52.299-900) (APR 1984)**

I hereby certify that the responses to the above Representations, Certifications and other statements are accurate and complete.

Signature: \_\_\_\_\_

Title : \_\_\_\_\_

Date : \_\_\_\_\_

**SECTION L - INSTRUCTIONS, CONDITIONS, AND NOTICES TO OFFERORS****L.1 NOTICE Listing Contract Clauses Incorporated by Reference****NOTICE:**

The following solicitation provisions and/or contract clauses pertinent to this section are hereby incorporated by reference:

**FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1)**

NUMBER	DATE	TITLE
52.204-6	SEP 1999	DATA UNIVERSAL NUMBERING SYSTEM (DUNS) NUMBER DEVIATION
52.215-1	FEB 2000	INSTRUCTIONS TO OFFERORS-COMPETITIVE ACQUISITION DEVIATION
52.215-5	OCT 1997	FACSIMILE PROPOSALS DEVIATION
52.222-46	FEB 1993	EVALUATION OF COMPENSATION FOR PROFESSIONAL EMPLOYEES DEVIATION
52.237-1	APR 1984	SITE VISIT DEVIATION
52.237-8	OCT 1995	RESTRICTIONS ON SEVERANCE PAYMENTS TO FOREIGN NATIONALS DEVIATION

**L.2 DISCLOSURE OF POTENTIAL ORGANIZATIONAL CONFLICTS OF INTEREST**

- a. Because of the extremely sensitive nature of providing Oil Program Center support for: 1) development and implementation of regulations; 2) evaluation of data; and 3) evaluation of public comments made in response to rule making activities, EPA considers an offeror (the prime contractor) to have significant potential for COI if that offeror currently owns or operates an oil industry or has a significant financial or business interest in an oil industry.

"Oil industry" is defined as any industry that includes (a) edible and nonedible oils and related products, devices, and affiliations related to non transportation facilities that handle, store or transport oil, or (b) any emerging or existing remediation technologies, products, devices, chemical and/or biological agents used in oil spill mitigation per 40CFR300.900.

"Owns or operates" is defined for the purposes of this proposal in the Federal Register (40 CFR 260.10 and 45 FR 33169).

- b. If an offeror submits a disclosure statement in accordance with the COI notification provisions found in provision L, ORGANIZATIONAL CONFLICT OF INTEREST NOTIFICATION (EPAAR 1552.209-70) (APR 1984), the offeror's disclosure statement shall include the following information.

The disclosure statement must address actual and potential organizational conflicts of interest within the offeror's entire corporate umbrella, including parent company, sister companies, affiliates, subsidiaries, and other interests held by the offeror, generally limited to third tier relationships unless there are potential conflicts of interests related to more distant affiliates. In addition to identifying actual and potential organizational conflicts of interest, the disclosure statement shall describe how any such conflict can be avoided, neutralized, or mitigated. The EPA Contracting Officer will determine an offeror's eligibility for award based on the information provided in the disclosure statement. The disclosure statement should include:

- o All current ownership, operation or significant financial or business interest the offeror (the prime Contractor), including any first, second, or third-tier parent companies or subsidiaries or other companies has in an oil industry that would be subject to or impacted by the rulemaking or promulgated regulations, and either propose how the existing COI situation will be avoided or mitigated prior to contract award or demonstrate why the relationship does not pose a COI.

- o All current and proposed prime contracts or subcontracts the offeror (prime Contractor) has with a firm(s) that won, operate, or have a significant financial or business interest in an oil industry that would be subject to or impacted by the rulemaking or promulgated regulations, and either propose how the existing COI situation will be avoided or mitigated prior to contract award or demonstrate why the relationship does not pose a COI.

- o All current and proposed contracts or subcontracts the offeror's team subcontractor(s), if any, currently has with an oil industry that would be subject to or impacted by the rulemaking or promulgated regulations, and either propose how the existing COI situation will be avoided or mitigated prior to contract award or demonstrate why the relationship does not pose a COI.

- c. This information will be used by the Contracting Officer to determine the eligibility of the offeror to receive an award under this procurement action. If it is determined that the potential for a significant conflict of interest exists, the offeror will be given an opportunity to provide additional information and propose measures to avoid, mitigate, or neutralize those potential conflicts. If the additional information or proposed measures to avoid, mitigate, or neutralize the potential conflict of interest is determined to be insufficient, an offeror may be found ineligible for contract award.

### **1.3 MINIMUM STANDARDS FOR EPA CONTRACTORS' CONFLICT OF INTEREST PLANS**

#### **1. PURPOSE**

The Environmental Protection Agency (EPA) has identified a need to avoid, neutralize, or mitigate actual and potential contractor conflicts of interest (COI). To accomplish this, contractors are required to have a COI Plan for identifying and reporting actual and potential COI. The

purpose of this document is to set forth the minimum standards for a contractor's COI Plan.

**2. COI PLAN**

The contractor's COI Plan is a document which describes the procedures a company used to identify and report COI. Generally, a contractor's corporate COI Plan will describe how a company, in its entirety, addresses conflicts, and will not be contract or program specific. The plan may also describe the options a company will consider proposing to avoid, neutralize, or mitigate a COI whenever a conflict is identified. The plan will be evaluated and approved by the applicable EPA Contracting Officer (CO) if the COI Plan meets the EPA's minimum requirements for detecting and reporting conflicts of interest. Contractors' COI Plans should be identified by a version number and date, as appropriate. EPA should be advised of the version number, date and applicable CO for any previously approved COI plan.

**3. MINIMUM STANDARDS FOR CONTRACTORS' COI PLANS**

**A. CORPORATE STRUCTURE**

The COI Plan shall describe any parent relationship and list all affiliates, subsidiaries, and sister companies, etc. Generally, this need not exceed three corporate tiers, unless a relationship exists beyond three tiers that would potentially create a conflict. In such a case, relationships beyond three tiers should also be included in the COI Plan. Contractors should report changes in its corporate structure to the Agency throughout contract performance.

Contractors are invited to include under this section a company profile. The profile should discuss all pertinent information relevant to COI including a summary of a contractor's primary and/or environmental business functions and activities. This background information will be very useful to Contracting Officers when evaluating whether or not a contractor has a COI.

**B. SEARCHING AND IDENTIFYING COI**

The COI Plan shall include a requirement describing when a COI search must be performed by company personnel and clearly identify the procedures to be followed. The searching requirement shall encompass all work related to all clients for whom work was performed over the past three years, all current work, all sites (if applicable), and any future work reflected in marketing proposals. Contractors must search their records over the past 36 months, or through all available records for a new company until 36 months of records are accumulated, from the time of receipt of the work from EPA. However, contractors are encouraged to search back as far as a company's records cover.

**C. DATA BASE**

The COI Plan shall require a data base that includes all necessary information for a contractor to review its past work (at a minimum over

the past 36 months or through all available records for a new company until 36 months of records are accumulated), work in progress, and work the company may be pursuing under any marketing proposals. This requirement does not establish any particular type or kind of retrieval system, however, the data base shall contain, at a minimum, the following information and capabilities:

- (1) a list of the company's past and public clients;
- (2) a description of the type(s) of work that was performed any other pertinent information
- (3) a list of the past sites (when applicable) on which the contractor has worked;
- (4) a list of the past sites (when applicable) related to any work performed;
- (5) the ability to search and retrieve the information in the data base; and
- (6) dollar value of the work performed.

If applicable, the COI Plan shall include provisions for supplemental searches of parent, affiliate, subsidiary, or sister company records. The COI Plan shall also describe any cross-checks used by the company when searching COI issues.

#### **D. PERSONAL CERTIFICATION**

At the minimum, the COI Plan shall require ALL employees of the company performing work under an EPA Superfund and/or Non-Superfund contract, including work on a site, work relating to a site, work pertaining to a CERCLA/RCRA action, to sign a personal certification. EPA recommends a policy whereby all company employees are required to sign such a certification rather than only those employees working under an EPA contract. The certification shall require at a minimum, that the individual agrees to report to the proper company authority any personal COI and that the individual has read and understands the company's COI Plan and procedures. Employees certifications shall be retained by the company.

#### **E. ANNUAL CERTIFICATION**

The COI Plan shall describe the process the company requires for submission of its annual certifications.

**NOTE:** Annual certification is NOT required if the contract contains an WA/TDD/DO certification requirement. Nevertheless, the contractor's COI Plan should address the procedures to be followed for annual certification.

#### **F. NOTIFICATION AND DOCUMENTATION**

The COI Plan shall clearly delineate the official within the company responsible for making COI determinations. Generally, this would be someone at a middle to upper level of management. The responsible official shall be free of any personal conflicts for the purpose of making COI determinations (e.g., a program manager who



receives bonuses based on the total amount of sales may not be free of conflicts).

The plan shall clearly identify the process that is required when notifying the EPA of any actual or potential COI and the actions that the company has taken or will take to avoid, neutralize, or mitigate the conflict. In addition, the contractor shall document all COI searches related to EPA work, whether or not an actual or potential COI has been identified.

#### **G. TRAINING**

The COI Plan shall require all employees of the company to receive basic COI training and that each employee receive COI awareness training at least annually. The company's COI Plan shall be available for all employees to review. Annual awareness training shall include, at a minimum, a review of the certification language and any changes that may have occurred in the company's COI Plan. In addition, companies are encouraged to routinely disseminate to their employees current COI information.

#### **H. SUBCONTRACTORS' COI PLANS**

The COI Plan shall describe the process and mechanism by which the company will monitor its subcontractors to ensure all subcontractors are complying with the COI provisions in their contracts. It is important that subcontractors identify and report COI as well as submit Limitation of Future Contracting (LOFC) requests for approval.

#### **L.4 FACILITIES CAPITAL COST OF MONEY (FAR 52.215-30) (SEP 1987) DEVIATION**

- (a) Facilities capital cost of money will be an allowable cost under the contemplated contract, if the criteria for allowability in subparagraph 31.205-10(a) (2) of the Federal Acquisition Regulation are met. One of the allowability criteria requires the prospective contractor to propose facilities capital cost of money in its offer.
- (b) If the prospective Contractor does not propose this cost, the resulting contract will include the clause Waiver of Facilities Capital Cost of Money.

#### **L.5 SERVICE OF PROTEST (FAR 52.233-2) (AUG 1996) DEVIATION**

- (a) Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO) shall be served on the Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Richard D. Medlin

Hand-Carried Address:

Environmental Protection Agency  
Ronald Reagan Building

Attn: Richard D. Medlin, Phone 202 564-4476  
1300 Pennsylvania Avenue, N.W.  
(Bid and Proposal Room No. 61107)  
Washington, DC 20004

Mailing Address:

Environmental Protection Agency  
Attn: Richard D. Medlin (3805F)  
1200 Pennsylvania Avenue, N.W.  
Washington, DC 20460

- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

**L.6 SOLICITATION PROVISIONS INCORPORATED BY REFERENCE (FAR 52.252-1) (FEB 1998) DEVIATION**

This solicitation incorporates one or more solicitation provisions by reference, with the same force and effect as if they were given in full text. Upon request, the Contracting Officer will make their full text available. The offeror is cautioned that the listed provisions may include blocks that must be completed by the offeror and submitted with its quotation or offer. In lieu of submitting the full text of those provisions, the offeror may identify the provision by paragraph identifier and provide the appropriate information with its quotation or offer. Also, the full text of a solicitation provision may be accessed electronically at this/these address(es):

<http://www.arinet.gov/far/>

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**L.7 ORGANIZATIONAL CONFLICT OF INTEREST NOTIFICATION (EPAAR 1552.209-70) (APR 1984) DEVIATION**

- (a) The prospective Contractor certifies, to the best of its knowledge and belief, that it is not aware of any information bearing on the existence of any potential organizational conflict of interest. If the prospective Contractor cannot so certify, it shall provide a disclosure statement in its proposal which describes all relevant information concerning any past, present, or planned interests bearing on whether it (including its chief executive and directors, or any proposed consultant or subcontractor) may have a potential organizational conflict of interest.
- (b) Prospective Contractors should refer to FAR Subpart 9.5 and EPAAR Part 1509 for policies and procedures for avoiding, neutralizing, or mitigating organizational conflicts of interest.

- (c) If the Contracting Officer determines that a potential conflict exists, the prospective Contractor shall not receive an award unless the conflict can be avoided or otherwise resolved through the inclusion of a special contract clause or other appropriate means. The terms of any special clause are subject to negotiation.

**L.8 PROPOSED CONTRACT START DATE--LEVEL OF EFFORT CONTRACT (EP 52.212-180) (AUG 1984)**

For proposal preparation purposes, offerors may assume a contract start date of **03/26/03** and that the required effort will be uniformly incurred throughout each contract period.

**L.9 INSTRUCTIONS FOR THE PREPARATION OF PROPOSALS (EPAAR 1552.215-72) (AUG 1999) ALTERNATE III (AUG 1999)**

- (a) Other than cost proposal instructions.

- (1) Submit proposal for other than cost factors as a separate part of the total proposal package. Omit all cost or pricing details from this proposal.

- (2) Special proposal instructions:

- (1) **Standard Form (SF) 33, solicitation, Offer, and Award**, with blocks 12 through 18 completed by offeror;

- (2) **Section B, Supplies or Services and price/costs**, with line item prices inserted by the offeror;

- (3) **Section K, Representation, certifications, and other statements of offeror**, completed by offeror;

- (4) **Any exceptions, deviations or conditional assumptions** to the terms and conditions of the RFP. Exceptions, deviations or conditional assumptions may render your proposal ineligible for an award without discussions.

- (5) **Past Performance Information** described provision Section L, (EPAAR 1552.215-75); and the following information:

- (i) For each project/contract described in past performance, list the total direct labor hours and total loaded labor (direct labor cost, fringe, labor overhead, G&A, other applicable indirects and fee/profit) amount proposed in the best and final offer for each contract period. Do not include other direct costs or travel costs. Calculate the project/contract average loaded rate per hour proposed for each contract period.

For each project/contract described in past performance, list the total direct labor hours and total loaded labor amount (include the impact of indirect rate adjustment incurred or likely to incur) for each contract period. Do not include other direct costs or travel costs. Calculate

the actual average loaded rate per hour incurred for each project/contract incurred for each contract period.

The delta between an offeror's proposed labor rate for performing a contract and the actual rate incurred during contract performance, demonstrates the offeror's ability to keep the promises made in it's proposal, understanding of the requirements, ability to perform the work, and ability to deliver quality at the cost proposed and manage cost control.

(6) **Organizational Conflict of Interest Plan** describing the system that will be employed to identify actual or potential conflict of interest situations that may arise as a result of the work under this contract. The offeror will describe the steps that will be taken to avoid or mitigate an actual or potential conflict. The offeror must address both organization and site specific conflicts of interest for past and future work. This plan shall be developed utilizing the "Draft Minimum Standards for EPA Contractors' Conflict of Interest Plans", March 31, 1990, as a guide.

(7) **Contract Management Plan** describing the system that will be employed to review materials and proposed services to be delivered under this contract to ensure they meet the specified outcome in accordance with the delivery schedule.

(8) **Subcontracting Plan** as called for by FAR 52.219-9. The EPA recommends the following goals for this procurement. The goals established for the Small Disadvantaged Business Concerns, Women Owned Small Business Concerns, HUBZone Small Businesses, and Veteran Owned Small Businesses count toward the overall 50% goal for Small Business Concerns.

Small Business Concerns 50%  
 Small Disadvantaged Business Concerns 20%  
 Women Owned Small Business Concerns 6%  
 HUBZone Small Businesses 3%  
 Service Disabled Veteran Owned Small Businesses 3%

(9) **Procedures for Handling Confidential Business Information (CBI)** which describes the management and control systems which will be utilized by the offeror and subcontractors (if any) in the performance of this contract to identify, report, segregate and secure the CBI in conformance with EPA requirements.

(b) Special cost proposal instructions: The offeror shall prepare and submit the **Task Matrix for OERR Technical Support for Regulatory Development, Analysis, Implementation, and Assessment for the Oil Program Center, Attachment No. 1.**

(1) the names of individuals and hours for each task listed in Attachment No.1;

- (2) number and kinds of labor;
- (3) the qualifications, resumes, and experience requirements for each individual proposed;
- (4) identify the key technical personnel (employee of the prime contractor) with the most assigned hours under each task listed on the matrix, that shall be responsible for ensuring the technical staff accomplish the task successfully and of accepting and implementing Technical Direction received from the EPA Work Assignment Manager;
- (5) the assumptions for the task team formation for each task and why the total average cost for the task is reasonable based on the type of work being performed.
- (6) calculate the cost proposal utilizing the actual labor rates and costs for the individuals proposed in the Task Matrix. This cost will accurately reflect the cost of the technical quality proposed.
- (7) For each contract identified in the offeror's list of past performance, provide the average contract rate per hour proposed and invoiced (total cost plus fee, less ODCs and travel, divided by labor hours). The comparison of the average contract rate for an hour of LOE proposed and invoiced under past or current contracts will made. This comparison will indicate the risk associated with the offeror's ability to deliver the quality proposed at the price/cost proposed for this procurement.

Cost or pricing proposal instructions. The offeror shall prepare and submit cost or pricing information data and supporting attachments in accordance with Table 15-2 of FAR 15.408. In addition to a hard copy of the information, to expedite review of the proposal, submit a 3.5" high density IBM-compatible formatted computer disk containing the financial data required, if this information is available using a commercial spreadsheet program on a personal computer. Submit this information using LOTUS 1-2-3, if available. Identify which version of LOTUS used. If the offeror used another spreadsheet program, indicate the software program used to create this information. Offerors should include the formulas and factors used in calculating the financial data. Although submission of a computer disk will expedite review, failure to submit a disk will not affect consideration of the proposal.

(1) General--Submit cost or pricing information prepared in accordance with FAR Table 15-2, Instructions for Submitting Cost/Price Proposals When Cost or Pricing Information Are Required and the following:

- (i) Clearly identify separate cost or pricing information associated with any:
  - (A) Options to extend the term of the contract;
  - (B) Options for the Government to order incremental quantities; and/or

(C) Major tasks, if required by the special instructions.

(ii) If the contract schedule includes a "Fixed Rate for Services" clause, please provide in the cost proposal a schedule duplicating the format in the clause and include proposed fixed hourly rates per labor category for the base and any optional contract periods.

(iii) If the contract includes the clause at EPAAR 1552.232-73 "Payments--Fixed-Rate Services Contract," or the clause at FAR 52.232-7, "Payments Under Time and Materials and Labor-Hour Contracts," include in the cost proposal the estimated costs and burden rate to be applied to materials, other direct costs, or subcontracts. The Government will include these costs as part of its cost proposal evaluation.

(iv) If other divisions, subsidiaries, a parent or affiliated companies will perform work, provide the name and location of such affiliate and offeror's intercompany pricing policy. Separately identify costs and supporting data for each entity proposed.

(v) The realism of costs, including personnel compensation rates (including effective hourly rates due to uncompensated overtime) will be part of the proposal evaluation. Any reductions to proposed costs or differences between proposed and known EPA/DCAA recommended rates must be fully explained. If an offeror makes a reduction which makes its offer or portions of its offer below anticipated costs, the offeror shall identify where (i.e., which elements of costs) the proposed reductions will be made. Unsubstantiated rates may result in an upward or downward adjustment of the cost proposals to reflect more realistic costs. Based on this analysis, a projected cost for the offeror will be calculated to reflect the Government's estimate of the offeror's probable costs. Any inconsistency, whether real or apparent, between the promised performance and cost or price should be explained. The burden of proof for cost credibility rests with the offeror.

(2) Direct Labor.

(i) The direct technical labor hours (level-of-effort) appearing in the solicitation are for professional and technical labor only. **These hours do not include direct labor cost for support personnel such as, management at a level higher than work assignment project management, e.g., corporate management, sponsors, program management, legal, administrative, data entry clerks, or clerical. If it is the offeror's normal accounting practice to invoice various support personnel as direct labor costs, the Offeror must show these additional direct labor costs and include an estimate of the directly chargeable labor-hours for these personnel. The labor hours and costs for direct charge support personnel must be shown separately from the level-of-effort labor hours. Identify support personnel by labor category, classification, name, grade, and cost in column No.1 under "Support Personnel" in the Task Matrix (Attachment 1). If this type of effort is normally included in the offeror's indirect cost allocations, no estimate is required. However, direct charging of these on any resulting contract will not be allowed. Additionally the direct technical labor hours are the workable hours required by the Government and do not include release time (i.e.,**

holidays, vacation, etc.) Submit the proposal utilizing the labor categories and distribution of the level-of-effort specified in the solicitation. These are approximate distribution levels and do not necessarily represent the actual levels which may be experienced during contract performance.

~~(ii) Explain the basis of the proposed labor rates, including a complete justification for all judgmental factors used to develop weights applied to company's category or individual rates that comprise the rates for labor categories specified in the solicitation. This explanation should describe how technical approach coincides with the proposed costs. If the proposed direct labor rates are based on an average of the individuals proposed to work on the contract, provide a list of the individuals proposed and the hours associated with each individual in deriving the rates. The expertise specific to each labor category chosen to perform the work must be appropriate to the level of expertise needed to perform each task and/or subtask listed in Section C.~~

~~(iii) Describe for each employee labor category proposed, the company's qualifications, experience, and requirements. If individual rates are used, provide the employee's name. If specific individuals are identified in the technical proposal, correlate these individuals with the labor categories specified in the solicitation.~~

(iv) Provide a matrix summarizing the effort proposed, including the subcontracts.

(v) Indicate whether current rates or escalated rates are used. If escalation is included, state the degree (percent) and methodology. The methodology shall include the effective date of the base rates and the policy on salary reviews (e.g. anniversary date of employee or salary reviews for all employees on a specific date). Indicate whether raises for each employee are included in the cost proposal.

(vi) State whether any additional direct labor (new hire or temporary hires) will be required during the performance period of this acquisition. If so, state the number required, the professional or technical level and the methodology used to estimate proposed labor rates.

(vii) With respect to educational institutions, include the following information for those professional staff members whose salary is expected to be covered by a stipulated salary support agreement pursuant to OMB Circular A-21.

(A) Individual's name;

(B) Annual salary and the period for which the salary is applicable;

(C) List of other research Projects or proposals for which salaries are allocated, and the proportionate time charged to each; and

(D) Other duties, such as teaching assignments, administrative assignments, and other institutional activities. Show the proportionate time charged to each. (Show proportionate time charges as a percentage of 100% of time for the entire academic year, exclusive of vacation or sabbatical leave.)

(viii) Uncompensated overtime. The decision to propose uncompensated overtime is the offeror's decision. Should the offeror, however, elect to propose uncompensated overtime, the offeror must propose a methodology that is consistent with their cost accounting practices and company policy. If proposed, provide an estimate of any uncompensated overtime proposed for exempt personnel working at the offeror's facilities. This estimate should identify the number of uncompensated labor hours and the percentage of compensated labor. Uncompensated labor hours are defined as hours for exempt personnel in excess of regular hours for a pay period which are actually worked and recorded in accordance with company policy. Provide a copy of the company policy on uncompensated overtime. Provide historical percentages of uncompensated overtime for the past three years. If proposed for subcontractors, provide separately with subcontractor information.

(ix) For labor rate contracts, for each fixed labor rate, offerors shall identify the basis for the loaded fixed hourly rate for each contract period for example, the rate might consist of the following cost elements: raw wage or salary rate, plus fringe benefits (if applicable), plus overhead rate (if applicable), plus G&A expense rate (if applicable), plus profit.

(A) If actual wages of current employees are used, the basis for the projections should be explained.

(B) If employees are subject to the Service Contract Act or Davis Bacon Act, they must be compensated at least at the minimum wage rate required by the applicable Wage Determination.

(3) Indirect costs (fringe, overhead, general, and administrative expenses).

(i) If the rates have been recently approved, include a copy of the rate agreement. If the agreement does not cover the projected performance period of the proposed effort, provide the rationale and any estimated rate calculations for the proposed performance period.

**(ii) Submit supporting documentation for rates which have not been approved or audited. Indicate whether computations are based upon historical or projected data.**

(iii) Provide actual pool expenses, base dollars, or hours (as applicable for the past five years). Include the actual indirect rates for the past five years including the indirect rates proposed, the actual indirect rates experienced and, if available, the final negotiated rate. Indicate the amount of unallowable costs included in the historical data.



(iv) Offerors who propose indirect rates for new or substantially reorganized cost centers should consider offering to accept ceilings on the indirect rates at the proposed rates. Similarly, offerors whose subcontractors propose indirect rates for new or substantially reorganized cost centers should likewise consider offering to accept ceilings on the subcontractors' indirect rates at the proposed rates.

Note to paragraph (b) (3) (iv): The Government reserves the right to adjust an offeror's or its subcontractor's estimated indirect costs for evaluation purposes based on the **Agency's** judgment of the most probable costs up to the amount of any stated ceiling.

(v) If the employees are subject to the Service Contract Act or Davis Bacon Act, employees must receive the minimum level of benefits stated in the applicable Wage Determination.

(4) Travel expense.

(i) If the solicitation specifies the amount of travel costs, this amount is exclusive of any applicable indirect costs and fee.

(ii) If the solicitation does not specify the amount of travel costs, attach a schedule illustrating how travel was computed. Include a breakdown indicating number of trips, number of travelers, destinations from and to, purpose and cost, e.g., mileage, transportation costs, subsistence rates.

(5) Equipment, facilities and special equipment, including tooling.

(i) If direct charges for use of existing contractor equipment are proposed, provide a description of these items, including estimated usage hours, rates, and total costs.

(ii) If equipment purchases are proposed, provide a description of these items, and a justification as to why the Government should furnish the equipment or allow its purchase with contract funds. (Unless specified elsewhere in this solicitation, FAR 45.302-1 requires contractors to furnish all facilities in performance of contracts with certain limited exceptions.)

(iii) Identify Government-owned property in the possession of the offeror or proposed to be used in the performance of the contract, and the Government **agency** which has cognizance over the property.

(iv) Submit proposed rates or use charges for equipment, along with documentation to support those rates.

(v) If special purposes facilities or equipment are being proposed, provide a description of these items, details for the proposed costs including competitive prices, and justification as to why the Government should furnish the equipment or allow its purchase with contract funds.

(vi) If fabrication by the prime contractor is contemplated, include details of material, labor, and overhead.

(6) Other Direct Costs (ODC).

(i) If the solicitation specifies the amount of other direct costs, this amount is exclusive of any applicable indirect cost and fee.

(ii) If the amount is not specified in the solicitation, attach a schedule detailing how other direct costs were computed. Identify the major ODC items that under the accounting system would be a direct charge on any resulting contract.

(iii) If any of the cost elements identified as part of the specified other direct costs are recovered as an indirect cost, in accordance with the offeror's accounting system, those costs should not be included as a direct cost. Complete explanation of this adjustment and the contractor's practice should be provided.

(iv) Provide historical other direct costs dollars per level of effort hour on similar contracts or work assignments.

(7) Team Subcontracts. When the cost of a subcontract is substantial (5 percent of the total estimated contract dollar value or \$100,000, whichever is less), the offeror shall include the following subcontractor information:

(i) Provide details of subcontract costs in the same format as the prime contractor's costs. This detailed information may be provided separately to the EPA if the subcontractor does not wish to provide this data to the prime contractor. Cost data provided separately by a contractor must be received by the time, date and at the location specified for the receipt of proposals. The subcontractor's package should be clearly marked with the RFP number, the name of the prime offeror, and a statement that the package is subcontractor data relevant to the proposal from the prime offeror. If submitted with the prime contractor's proposal, identify the subcontractors. State the amount of service estimated to be required and the quoted daily or hourly rate. Offerors are encouraged to provide letters of intent, signed by subcontractors, agreeing to a specified rate for life of the contract. Include a cost or price analysis of the subcontractor cost showing the reasons why the costs are considered reasonable;

(ii) Describe how the prospective team subcontractors were chosen as part of the offeror's proposed team; and rationale for selection;

(iii) Describe the necessity for the subcontractor's effort as either a supplement or complement to the offeror's in-house expertise;

(iv) Identify the areas of the scope of work and the level of effort the subcontractors are anticipated to perform. Provide a reconciliation summary of the proposed hours and ODCs for the prime contractor and proposed subcontractor(s).

(v) Describe the prime contractor's management structure and internal controls to ensure efficient and quality performance of team subcontractors.

(8) Facilities Capital Cost of Money (FCCM). When an offeror elects to claim FCCM as an allowable cost, the offeror must submit Form CASB-CNF and show calculation of the proposed amount. FCCM will be an allowable cost under the contemplated contract, if the criteria for allowability at FAR 31.205-10(a)(2) are met.

#### **L.10 ORAL PRESENTATIONS**

The oral presentation provides an opportunity for real-time interactive dialogue among the Offeror, the Technical Evaluation Panel (TEP) Members and the Contracting Officer (CO). No information presented during the presentation will be incorporated into any resultant contract. The offeror's presentation must demonstrate its **understanding** of and **ability to perform** the work, NOT an approach as to how it will perform the work. The oral presentation represents one of the key areas of importance that will be considered in the source selection decision and supports meaningful comparison and discrimination between and among competing proposals. The presentation and real-time interactive dialogue will be recorded by EPA using a video camera and may be disseminated to authorized personnel within EPA only and the offeror.

1) The offeror's person (prime contractor's) responsible for managing the contract shall make an oral presentation which demonstrates its ability to manage a large multi-disciplinary team over a large geographic area for multiple tasks; manage cost by order and by task; meet reporting requirements similar to those in this contract, particularly reporting on workload status and staffing levels; manage high volume small dollar work assignments requiring quick turnaround; increase staffing to meet short and long term requirements; train and maintain a well-qualified staff; and, communicate effectively with customers. Offerors may demonstrate their management ability to meet the requirements by explaining and demonstrating how they met the requirements and performed on similar requirements in the past.

2) The offeror's (prime contractor's) key technical personnel proposed for the most hours for a task on the Task Matrix and who are responsible for ensuring the work performed under that task meets the quality and delivery schedule requirements, shall make an oral presentation which demonstrates the offeror's understanding and ability to perform the tasks. No subcontractor employee can attend the presentation unless that employee has been designated as an AGENT of the prime contractor. Offerors may demonstrate their technical ability to meet the requirements by explaining and demonstrating how they met the requirements and performed on similar requirements in the past.

3) No written material is required nor will be accepted for this interactive dialogue. The Offeror may utilize the following media to supplement its presentation: 1) existing descriptive literature, such as, brochures, slides, marketing material, computer presentation, or commercial products; and, 2) deliverables submitted to clients under previous projects or contracts. The Government will not provide any equipment or material aid for the Offeror's presentation. Each Offeror must provide any equipment or material aid required for its presentation. At the conclusion of the real-time interactive dialogue,

the Offeror shall collect and remove all media, equipment and material aid used to supplement its presentation.

4) Presentations will be conducted in Washington, DC, in an EPA office. After receipt of the proposal, the Contracting Officer will contact the Offeror to establish the specific time and office.

5) The Offeror will be provided ninety (90) minutes to make its entire presentation. After approximately sixty (60) minutes during the presentation there will be a fifteen (15) break.

6) Following each presentation, the TEP Members and the CO may request clarification of any points addressed which are unclear and may ask for explanation or substantiation by the offeror on any point which was not adequately supported or addressed in the presentation.

The Government will not conduct discussions regarding the Offerors proposal within the meaning of FAR 15.306. In accordance with FAR 52.215-1(f)(4), the Government intends to award a contract without discussions with Offerors. Offerors may be given the opportunity to clarify certain aspects of their proposals (e.g., the relevance of its past performance information and adverse past performance information to which it has not previously had an opportunity to respond) or to resolve minor or clerical errors.

#### **L.11 ORGANIZATIONAL CONFLICT OF INTEREST PLAN**

The offeror shall submit, along with its business/cost proposal, an Organizational Conflict of Interest Plan describing the system that will be employed to identify actual or potential conflict of interest situations that may arise as a result of the work under this contract. The offeror will describe the steps that will be taken to avoid or mitigate an actual or potential conflict. The offeror must address both organization and site specific conflicts of interest for past and future work. This plan shall be developed utilizing the "Draft Minimum Standards for EPA Contractors' Conflict of Interest Plans", March 31, 1990, as a guide.

#### **L.12 PAST PERFORMANCE INFORMATION (EPAAR 1552.215-75) (OCT 2000)**

(a) Offerors shall submit the information requested below as part of their proposal for both the offeror and any proposed subcontractors for subcontracts expected to exceed \$500,000. The information may be submitted prior to other parts of the proposal in order to assist the Government in reducing the evaluation period.

(b) Offerors shall submit a list of all or at least 4 contracts/projects and subcontracts completed in the last 3 years, and all contracts and subcontracts currently in process, which are similar in nature to this requirement.

(1) The contracts and subcontracts listed may include those entered into with Federal, State and local governments, and commercial businesses, which are of similar scope, magnitude, relevance, and complexity to the

requirement which is described in the RFP. Include the following information for each contract and subcontract listed:

- (a) Name of contracting activity.
  - (b) Contract number.
  - (c) Contract title.
  - (d) Contract type.
  - (e) Brief description of contract or subcontract and relevance to this requirement.
  - (f) Total contract value.
  - (g) Period of performance.
  - (h) Contracting officer, telephone number, and E-mail address (if available).
  - (i) Program manager/project officer, telephone number, and E-mail address (if available).
  - (j) Administrative Contracting officer, if different from (h) above, telephone number, and E-mail address (if available).
  - (k) List of subcontractors (if applicable).
  - (l) Compliance with subcontracting plan goals for small disadvantaged business concerns, monetary targets for small disadvantaged business participation, and the notifications submitted under FAR 19.1202-4 (b), if applicable.
- (c) Offerors should not provide general information on their performance on the identified contracts and subcontracts. General performance information will be obtained from the references.
- (1) Offerors may provide information on problems encountered and corrective actions taken on the identified contracts and subcontracts.
  - (2) References that may be contacted by the Government include the contracting officer, program manager/project officer, or the administrative contracting officer identified above.
  - (3) If no response is received from a reference, the Government will make an attempt to contact another reference identified by the offeror, to contact a reference not identified by the offeror, or to complete the evaluation with those references who responded. The Government shall consider the information provided by the references, and may also consider information obtained from other sources, when evaluating an offeror's past performance.
  - (4) Attempts to obtain responses from references will generally not go beyond two telephonic messages and/or written requests from the Government, unless otherwise stated in the solicitation. The Government is not obligated to contact all of the references identified by the offeror.
- (d) If negative feedback is received from an offeror's reference, the Government will compare the negative response to the responses from the offeror's other references to note differences. A score will be assigned appropriately to the offeror based on the information. The offeror will be given the opportunity to address adverse past performance information obtained from references on which the offeror has not had a previous opportunity to comment, if that information makes a difference in the

Government's decision to include the offeror in or exclude the offeror from the competitive range. Any past performance deficiency or significant weakness will be discussed with offerors in the competitive range during discussions.

- (e) Offerors must send Client Authorization Letters to each reference listed in their proposal to assist in the timely processing of the past performance evaluation. Offerors are encouraged to consolidate requests whenever possible (i.e., if the same reference has several contracts, send that reference a single notice citing all applicable contracts). Offerors may send Client Authorization Letters electronically to references with copies forwarded to the contracting officer. Client Authorization Letter format is as follows:

**CLIENT AUTHORIZATION LETTER**

Dear (Reference):

We are currently responding to the Environmental Protection Agency RFP #PR-HQ-02-10855 for the procurement of advisory and assistance services. The EPA is placing increased emphasis in their acquisitions on past performance as a source selection evaluation factor. EPA requires offerors to inform references identified in proposals that EPA may contact them about past performance information.

If you are contacted by EPA for information on work we have performed under contract for your company/agency/state or local government, you are hereby authorized to respond to EPA inquiries.

Your cooperation is appreciated. Please direct any questions to \_\_\_\_\_.

(Offeror's point-of-contact)

Sincerely,

(End of Client Authorization Letter)

(1) If an offeror has no relevant past performance history, an offeror must affirmatively state that it possesses no relevant past performance history.

(2) Client Authorization Letters should be mailed or E-mailed to individual references no later than five (5) working days after proposal submission. The offeror should forward a copy of the Client Authorization Letter to the contracting officer simultaneously with mailing to references.

- (f) Each offeror may describe any quality awards or certifications that indicate the offeror possesses a high-quality process for developing and

producing the product or service required. Such awards or certifications include, for example, the Malcolm Baldrige Quality Award, other Government quality awards, and private sector awards or certifications.

(1) Identify the segment of the company (one division or the entire company) which received the award or certification.

(2) Describe when the award or certification was bestowed. If the award or certification is over three years old, present evidence that the qualifications still apply.

- (g) Past performance information will be used for both responsibility determinations and as an evaluation factor for award. The Past Performance Questionnaire identified in section J will be used to collect information on an offeror's performance under existing and prior contracts/subcontracts for products or services similar in scope, magnitude, relevance, and complexity to this requirement in order to evaluate offerors consistent with the past performance evaluation factor set forth in section M. References other than those identified by the offeror may be contacted by the Government and used in the evaluation of the offeror's past performance.
- (h) Any information collected concerning an offeror's past performance will be maintained in the official contract file.
- (i) In accordance with FAR 15.305 (a) (2) (iv), offerors with no relevant past performance history, or for whom information on past performance is not available, will be evaluated neither favorably nor unfavorably on past performance.

#### **L.13 TECHNICAL QUESTIONS (EP 52.215-110) (APR 1984)**

Offerors must submit all technical questions concerning this solicitation in writing to the contract specialist. EPA must receive the questions no later than **14** calendar days after the date of issuance of this solicitation. EPA will answer questions which may affect offers in an amendment to the solicitation. EPA will not reference the source of the questions.

#### **L.14 RELEASE OF COST OR PRICING PROPOSALS OUTSIDE THE GOVERNMENT FOR AUDIT (EP 52.215-115) (MAR 1989)**

Cost or pricing proposals submitted in response to this solicitation may be released outside the Government for audit purposes regardless of whether information contained in such proposals has been claimed or determined to be business confidential. If an outside audit is obtained, the non-Government auditor shall use the information only for audit purposes; shall not disclose any information in the proposals to anyone other than authorized EPA employees without the prior written approval of the Assistant General Counsel responsible for information law matters; and shall return all copies of proposals, as well as any abstracts, to the Government upon completion of the audit. The non-Government auditor shall obtain a written agreement from each of its

employees with access to the proposals to honor these limitations prior to allowing the employee access.

**L.15 SMALL DISADVANTAGED BUSINESS PARTICIPATION PROGRAM (EPAAR 1552.219-72)  
(OCT 2000)**

- (a) Section M of this solicitation contains a source selection factor or subfactor related to the participation of small disadvantaged business (SDB) concerns in the performance of the contract. The nature of the evaluation of an SDB offeror under this evaluation factor or subfactor is dependent upon whether the SDB concern qualifies for the price evaluation adjustment under the clause at FAR 52.219-23, Notice of Price Evaluation Adjustment for Small Disadvantaged Business Concerns and whether the SDB concern specifically waives this price evaluation adjustment.
- (b) In order to be evaluated under the source selection factor or subfactor, an offeror must provide, with its offer, the following information:
  - (1) The extent of participation of SDB concerns in the performance of the contract in terms of the value of the total acquisition. Specifically, offerors must provide targets, expressed as dollars and percentages of the total contract value, for SDB participation in the applicable and authorized North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. Total dollar and percentage targets must be provided for SDB participation by the prime contractor, including team members and joint venture partners. In addition, total dollar and percentage targets for SDB participation by subcontractors must be provided and listed separately;
  - (2) The specific identification of SDB concerns to be involved in the performance of the contract;
  - (3) The extent of commitment to use SDB concerns in the performance of the contract;
  - (4) The complexity and variety of the work the SDB concerns are to perform; and
  - (5) The realism of the proposal to use SDB concerns in the performance of the contract.
- (c) An SDB offeror who waives the price evaluation adjustment provided in FAR 52.219-23 shall provide, with their offer, targets, expressed as dollars and percentages of the total contract value, for the work that it intends to perform as the prime contractor in the applicable and authorized North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. All of the offeror's identified targets described in paragraphs (b) and (c) of this clause will be incorporated into and made part of any resulting contract.



**L.16 IDENTIFICATION OF SET-ASIDE/8A PROGRAM APPLICABILITY (EP 52.219-100)  
(FEB 1991)**

This new procurement is being processed as follows:

(a) Type of set-aside: No Applicable Set-Aside

Percent of the set-aside: \_\_\_\_\_

(b) 8(a) Program: Not Applicable

**L.17 SUBCONTRACTING PROGRAM PLAN FOR UTILIZATION OF SMALL BUSINESS AND SMALL  
DISADVANTAGED BUSINESS CONCERNS (EP 52.219-125) (AUG 1984)**

As part of the initial offer, offerors shall submit a subcontracting plan as called for by FAR 52.219-9. The EPA recommends the following goals for this procurement. These goals are mutually exclusive of each other.

Small Business Concerns 50%

Small Disadvantaged Business Concerns 20%

Women Owned Small Business Concerns 6%

HUBZone Small Businesses 3%

Service Disabled Veteran Owned Small Businesses 3%

**L.18 NOTICE OF FILING REQUIREMENTS FOR AGENCY PROTESTS (EPAAR 1552.233-70)  
(JUL 1999) DEVIATION**

Agency protests must be filed with the Contracting Officer in accordance with the requirements of FAR 33.103(d) and (e). Within 10 calendar days after receipt of an adverse Contracting Officer decision, the protester may submit a written request for an independent review by the Head of the Contracting Activity. This independent review is available only as an appeal of a Contracting Officer decision on a protest. Accordingly, as provided in 4 CFR 21.2(a)(3), any protest to the GAO must be filed within 10 days of knowledge of the initial adverse Agency action.

**L.19 CONFLICT OF INTEREST PLAN (LOCAL LC-09-04) (DEC 2001) DEVIATION**

As part of the initial offer, offerors should submit an Organizational Conflict of Interest (COI) Plan which outlines the procedures in place to identify and report conflicts of interest, whether actual or potential, throughout the period of contract performance. The plan shall address step by step the checks and balances in place to detect potential or actual conflict of interests, organizationally, with personnel, and with subcontractors that could result from activities covered by the Statement of Work. The COI plan shall be incorporated into any resulting contract.

The COI plan shall be evaluated in accordance with the provision in Section M entitled, "EVALUATION OF CONFLICT OF INTEREST PLAN".

The Agency's Minimum Standards for Organizational Conflict of Interest Plans is posted to the Internet at  
<http://www.epa.gov/oamrfp12/ptod/epaar.pdf>.

**SECTION M - EVALUATION FACTORS FOR AWARD****M.1 EVALUATION OF OPTIONS (FAR 52.217-5) (JUL 1990) DEVIATION**

Except when it is determined in accordance with FAR 17.206(b) not to be in the Government's best interests, the Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirements. Evaluation of options will not obligate the Government to exercise the option(s).

**M.2 EPA SOURCE EVALUATION AND SELECTION PROCEDURES--NEGOTIATED PROCUREMENTS (EPAAR 1552.215-70) (AUG 1999) DEVIATION**

(a) The Government will perform source selection in accordance with FAR Part 15 and the EPA Source Evaluation and Selection Procedures in EPAAR Part 1515 (48 CFR Part 1515). The significant features of this procedure are:

- (1) The Government will perform either cost analysis or price analysis of the offeror's cost/business proposal in accordance with FAR Parts 15 and 31, as appropriate. In addition, the Government will also evaluate proposals to determine contract cost or price realism. In accordance with FAR 15.305(a)(1,) the cost realism analysis will determine what the Government should realistically expect to pay for the proposed effort, the offeror's understanding of the work, and the offeror's ability to perform the contract.
- (2) The Government will evaluate technical proposals as specified in 1552.215-71, Evaluation Factors for Award.

(b) In addition to evaluation of the previously discussed elements, the Government will consider in any award decision the responsibility factors set forth in FAR Part 9.

**M.3 EVALUATION FACTORS FOR AWARD (EPAAR 1552.215-71) (AUG 1999)**

- (a) The Government will make award to the responsible offeror(s) whose offer conforms to the solicitation and is most advantageous to the Government cost or other factors considered. For this solicitation, all evaluation factors other than cost and cost related factors, when combined, are approximately equal to cost and cost related factors. The evaluation of the non-cost and cost related information will be in accordance with the scoring plan described in EPAAR 1515.305-70 Scoring Plans.
- (b) The non-cost and cost related evaluation factors to determine the quality of product or service are listed below in descending order of importance:

(1) Past Performance

Prime contracts performed by the prime

Based on past performance information obtained by the Contracting Officer from any reference associated with the Offeror's prime contracts, the Government will evaluate the offeror's demonstrated understanding and ability to manage the contract.

Projects performed by the prime and/or team subcontractor(s)

Based on past performance information obtained by the Contracting Officer from any reference associated with the site specific projects performed by the prime and/or team subcontractor(s), if any, the Government will evaluate the offeror's demonstrated understanding and ability to perform the following statement of work (SOW) tasks listed below in descending order of importance:

- (i) Regulatory Support
- (ii) Technical Support
- (iii) Training Support
- (iv) Meeting and Logistical Support

(2) Management and Technical Capability

The offeror's oral presentation will be evaluated on its demonstrated understanding and ability to manage the contract and on its demonstrated understanding and ability to perform the following statement of work (SOW) tasks listed below in descending order of importance:

- (i) Regulatory Support
- (ii) Technical Support
- (iii) Training Support
- (iv) Meeting and Logistical Support

(3) Utilization of Small and Small Disadvantaged Business

Offerors will be evaluated based on the demonstrated extent of participation of small disadvantaged business (SDB) concerns in the performance of the contract in each of the authorized and applicable North American Industry Classification System (NAICS) Industry Subsectors as determined by the Department of Commerce. As part of this evaluation, offerors will be evaluated based on the following which are all of equal importance:

- (i) The extent to which SDB concerns are specifically identified to participate in the performance of the contract;

(ii) The extent of the commitment to use SDB concerns in the performance of the contract (enforceable commitments will be weighed more heavily than nonenforceable commitments);

(iii) The complexity and variety of the work the SDB concerns are to perform under the contract;

(iv) The realism of the proposal to use SDB concerns in the performance of the contract; and

(v) The extent of participation of SDB concerns, at the prime contractor and subcontractor level, in the performance of the contract (in the authorized and applicable NAICS Industry Subsectors in terms of dollars and percentages of the total contract value.

#### **M.4 DETERMINATION OF RESPONSIBILITY**

- a. The Contracting Officer will perform a determination of responsibility for the apparent successful offeror in accordance with FAR 9.104. The acceptability of the following three plans and procedures will be considered as part of the responsibility determination undertaken prior to contract award to determine whether an offeror meets the responsibility standard set forth in FAR Sub-part 9.104. An offeror whose plans or procedures are not acceptable at time of award will be considered non-responsible and ineligible for award.

Contract Management Plan

Subcontracting Plan

Procedures for Handling Confidential Business Information (CBI)

- b. The responsibility determination will include consideration of any actual or potential organizational conflicts of interest. In assessing the potential for conflicts of interest, the Contracting officer will review the information furnished in response to the solicitation provision entitled, DISCLOSURE OF POTENTIAL ORGANIZATIONAL CONFLICTS OF INTEREST, and the Conflict of Interest Plan furnished in accordance with the solicitation provision entitled, ORGANIZATIONAL CONFLICT OF INTEREST PLAN. As stated in the DISCLOSURE OF POTENTIAL ORGANIZATIONAL CONFLICTS OF INTEREST provision, there is no set formula for determining what would represent an acceptable level of risk to the Government when considering conflict of interest issues. The Conflict of Interest Plan will, however, be evaluated as acceptable or unacceptable based on the following:

1. The "Minimum Standards for EPA Contractors' Conflict of Interest Plans";

2. The adequacy of the offeror's generic plan for avoiding, neutralizing, or mitigating actual or potential organizational conflicts of interest that may arise following contract award; and

3. The adequacy of the offeror's specific plan for avoiding, neutralizing or mitigating existing actual or potential organizational conflicts of interest that were identified prior to contract award.

If the Contracting Officer determines that the apparent successful offeror has an actual or potential conflict of interest which cannot reasonably be avoided, neutralized or mitigated, the offeror will be determined not responsible and will not be eligible for award.

If an apparent successful offeror submits a Conflict of Interest Plan that is determined to be unacceptable as of the time scheduled for contract award, the contracting officer will determine that the offeror is non-responsible and ineligible for contract award.

**M.5 PROHIBITION OF OWNER OR OPERATOR OF AN OIL INDUSTRY FROM CONTRACTOR AWARD**

An Offeror will be ineligible for award under this solicitation if EPA determines that the Offeror, or the proposed subcontractors, at time of award, own or operate an oil industry.

"Owns or operates" is defined for the purposes of this proposal in the Federal Register (40 CFR 260.10 and 45 FR 33169).

"Oil Industry" is defined as any industry that includes (a) edible and nonedible oils and related products, devices and affiliation related to non-transportation facilities that handle, store, or transport oil; or (b) any emerging or existing remediation technologies, products, devices, chemical and/or biological agents used in oil spill mitigation per 40 CFR 300.900.

**M.6 EVALUATION OF PROPOSALS FOR AVOIDING OR MITIGATING AN EXISTING SIGNIFICANT POTENTIAL FOR CONFLICT OF INTEREST**

If the EPA determines that the Offeror, or potential subcontractors, at time of award: (a) have a significant financial or business interest in an oil industry, which creates an actual or significant potential conflict of interest that cannot reasonably be avoided, neutralized or mitigated; or (b) who otherwise fails to provide an adequate COI plan, then the Offeror will be considered to be non-responsible and will therefore be eliminated from the competition in accordance with FAR 9.104-1(g) and 9.504.